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Wednesday, 24 March 1948

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE E. H. NORTHCROFT,
Member from the Dominion of New Zealand, not sitting
from 0930 to 1600; HONORABLE JUSTICE I. M. ZARYANOV,
Member from the USSR., not sitting from 1330 to 1600;
HONORABLE JUSTICE R. B. PAL, Member from India and
HONORABLE JUSTICE JU-AO MEI, Member from the Republic
of China, not sitting from 1500 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except UMEZU, MATSUI, and SHIRATORI, who are represented
5 by counsel. The Sugamo Prison surgeon certifies that
6 they are ill and unable to attend the trial today. The
7 certificates will be recorded and filed.

8 Mr. Levin.

9 MR. LEVIN: Mr. President, I now make the
10 presentation on behalf of SUZUKI, Teiichi.

11 1. At the beginning of this trial, the
12 President announced that the Members of this Tribunal
13 had signed a joint affirmation to administer justice
14 according to law without fear, favor or affection;
15 that there has not been a more important criminal trial
16 in all history; that the Tribunal is not a Senate or
17 House of Peers met for the impeachment of Verres or a
18 Hastings, but a court of plain men selected from the
19 Superior Courts of the respective nations which consti-
20 tute the Tribunal, and that the onus would be on the
21 prosecution to establish guilt beyond a reasonable
22 doubt.⁽¹⁾ The same idea is also expressed by the chief
23 prosecutor in his opening statement.⁽²⁾ The chief
24 prosecutor also indicated in his opening statement⁽³⁾
25 that to hold the accused guilty in connection with the

(1) T. 21, May 3, 1946; (2) T. 434; (3) T. 405.

1 charges under planning and initiating a war of aggres-
2 sion, two things are essential: (1) There must be an
3 international law covering the subject; and (2) there
4 is a crime under that law. It is, however, disquieting
5 to note that the chief prosecutor speaks of "legal
6 technicians" in a contemptuous vein recalling James I
7 in that historic Sunday Conference which has become locus
8 classicus in judicial history. The answer of the defense
9 is that of Sir Edward Coke that causes which concern the
10 life or liberty of the accused is to be decided not by
11 the natural reason of the conquerors, but the artificial
12 reason and judgment of the law (of nations.) It is
13 hard to believe that the chief of counsel is desiring
14 to give James I the last laugh over Sir Edward. At any
15 rate we are confident that the Tribunal through its
16 President were expressing their determination to follow
17 the path of the law indicated by Lord Coke, a procedure
18 which is essential for maintaining the supremacy of law
19 among nations as well as for safeguarding fundamental
20 human rights.

21
22 2. In a case of this magnitude involving
23 statesmanship of the accused, it is not possible properly
24 to evaluate the behavior of the accused, without knowing
25 the man and his ideology. Before answering specific
charges by the prosecution, therefore, we may be

1 permitted to note certain characteristic features of his
2 life and thought, as the defense understands them, in
3 view of the evidence in the record and SUZUKI's affidavit
4 (4)
in particular.

5 3. It is apparent from uncontradicted state-
6 ments in SUZUKI's affidavit that professional soldier as
7 SUZUKI was, his political ideology was deeply influenced
8 especially by his intimate intercourse with a group of
9 young statesmen like Prince KONOYE who were all ardent
10 admirers of Prince SAIONJI's political liberalism. This
11 accounts largely for his behavior evincing a strong
12 antipathy to dictatorial and totalitarian government
13 and the Nazi Germany in particular. Like most Japanese
14 liberals interested in Chinese affairs SUZUKI belonged
15 to the school which was in sympathy with the national
16 aspirations of China. He was, therefore, an advocate of
17 Sino-Japanese friendship in terms of equality and his
18 Chinese friends were mostly of the Nationalist Party.
19 This attitude was manifested in SUZUKI's hearty support
20 of the political views advanced by Hwang Fu, a
21 Nationalistic statesman, in 1933 in Peiping, and his
22 favorable report of the same to his superiors in the
23 War Ministry. His opinion was not accepted, largely
24 because it was contrary to the ideas of the opposite
25 (4) T. 35173 et seq.

1 school concerning China then dominant in the War
2 Ministry, and partly because he, then a mere Lieutenant
3 Colonel, was not influential enough to change this
4 political trend. In view of the fact that SUZUKI's
5 views on China were regarded as heterodox in the army
6 circle, it is not to be wondered at that he was soon
7 removed to posts such as a member of the Intelligence
8 Corps, an instructor of military science in the War
9 College or a Cabinet investigator which had nothing to
10 do with the conduct of Chinese affairs or to posts
11 away from the centre as in the eastern corners in
12 Manchuria. No wonder then that when the China Incident
13 occurred in 1937 the liberal and pro-Chinese SUZUKI
14 watched with profound concern the spread of military
15 clashes between the Japanese and the Nationalist armies
16 in China. It is no wonder again that when in 1938 he
17 was called back to Tokyo to assume the post of a section
18 chief of the China Affairs Board, and when he was
19 obliged to execute his duties within the framework of a
20 policy not personally approved by him, he endeavored
21 nevertheless to do his duty with the three principles
22 based on his personal convictions. Every public servant
23 must execute the orders of his superiors; otherwise the
24 business of government cannot be conducted. Yet if he
25 is possessed of critical intelligence, he may sometimes

1 be highly skeptical of the very policy he is in duty
2 bound to execute. SUZUKI was such a man; he had on
3 the other hand a keen sense of military and official
4 discipline. And this behavior of the accused in the
5 China Affairs Board must be interpreted as a compromise
6 between the exigencies of his official duty and those
7 of his own convictions and conscience. Here too he was
8 a mere chief of a section and was impotent to stem the
9 tide of the main political current.

10 4. He was a liberal, but certainly not a
11 communist. Like most Japanese liberals he felt that the
12 Russian people were entirely free to live under a
13 political regime they liked, but that those subversive
14 Communistic movements which undermined the very found-
15 ations of the Japanese State aided and abetted by the
16 Third International should be vigorously opposed. How-
17 ever, SUZUKI, through his studies in the problems of
18 national economy, was able to look at national defense
19 in the context of broader national life. He was
20 certainly opposed to the activities of the Third Inter-
21 national, but clearly saw that a conflict with a major
22 power like the U.S.S.R. would be disastrous to his
23 country whatever its outcome. The same idea was mani-
24 fested in SUZUKI's ingenious plan to avoid border
25 incidents which he practised with success during his

assignments in Eastern Manchuria.

1 5. The choice of SUZUKI by the Prime Minister
2 KONOYE as President of the Planning Board was due to the
3 fact that unlike most military officers SUZUKI had an
4 intelligent understanding of the problems of national
5 economy in general, and also to the fact that he would
6 be able more effectively than civilians to check the
7 exorbitant demands for allocations by the armed forces
8 which were then fraught with the danger of jeopardizing
9 national livelihood. Unlike ministers of the Departments
10 SUZUKI as head of that Board was not charged with the
11 responsibility to carry out any of the plans decided
12 upon; that was the function of the respective Ministries
13 His main duty was to assist the Premier in exercising the
14 political function of conciliating and co-ordinating the
15 conflicting demands of the Ministries, and to evolve such
16 economic plans as could be consented to by all the
17 Ministries. It is true that the Planning Board was
18 apprised of the details regarding the economic require-
19 ments of the Ministries, except in the case of the War
20 and Navy Ministries which latter were not allowed under
21 the heavy penalties of law to reveal to the Planning
22 Board or to anybody else the details regarding the
23 allocation demanded. The Planning Board was thus in a
24 key position to know the civilian economic situation of
25

the country as a whole. So the President of the Planning Board was the logical person to be asked to explain on behalf of the Prime Minister economic matters before the Liaison Conference or the Cabinet. There were, however, serious lacunae in the information available to the Board on economic matters, such as petroleum, which was kept secret by the military departments from the Planning Board. The Planning Board when requested to make explanations to elucidate matters relating to petroleum as a whole in the Liaison Conference, it had to rely with implicit confidence on data supplied by the two branches of the armed services. The function of the Planning Board was no more than the above.

6. SUZUKI, however, was a trusted friend of KONOYE. KONOYE as Prime Minister had of course his official and private secretaries. But KONOYE saw that in dealing with some domestic political situations SUZUKI's ability and position was such as to make him more suitable for the purpose than his other secretaries. And that accounts for the part played by SUZUKI in the important liaison work as between KONOYE, KIDO, TOJO, and HIGASHIKUNI immediately before the fall of the Third KONOYE Cabinet. And that was also the reason why he was asked to attend the Ogikubo Conferences not indeed to participate in the major discussions but to record its

proceedings. SUZUKI often expressed his views or
1 tendered advice to KONOYE, but it was given as KONOYE's
2 friend, not in the capacity of the President of the
3 Planning Board. The advice evinced his efforts to avert
4 a drift of the nation into war with America, by coming
5 to terms by negotiation with the United States which
6 SUZUKI like all intelligent Japanese statesmen heartily
7 desired.
8

9 7. SUZUKI's function in the TOJO Cabinet was
10 strictly confined to his work as the President of the
11 Planning Board. He was not TOJO's personal friend as he
12 certainly was KONOYE's, and SUZUKI was not in a position
13 to act as TOJO's high-class secretary or confidential
14 political adviser, although he was certainly an official
15 immediately subordinate to him and assisted him faith-
16 fully in matters which fell within the purview of the
17 Planning Board.
18

19 8. Until November 27 or 28 he sincerely hoped
20 for peace and thought that terms could be made with the
21 United States, though the subsequent course of events
22 proved to be such that his judgment cannot possibly
23 escape the censure of having been a bit of wishful
24 thinking.

25 8-A. The accused does not deny that he gave
his assent to the cabinet decision for war. It is clear

1 that he was doing his best within his power to avoid
2 that war. However, after the Hull note of 26 November
3 he came to believe in the light of informations supplied
4 by his expert colleagues in charge and the military
5 authorities, that the danger to his country was so
6 immediate as to make war inevitable as a measure of
7 self-defense.

8 9. The accused does not deny that after the
9 national decision had been made, he bent his efforts
10 towards bringing the war to a success.

11 10. In making this presentation on behalf of
12 the accused SUZUKI, it is not our purpose to discuss
13 the law applicable to the case. That has already been
14 fully done in the course of the defense summation and
15 will only be referred to in relation to a situation
16 specially applicable to this accused.

17 11. The relation of the accused SUZUKI to the
18 events involved in this case are divided in two main
19 categories:

20 (1) His services in the Army until April, 1941.

21 (2) His services as President of the Planning
22 Board, in the Second and Third KONOYE Cabinets and in
23 the TOJO Cabinet.

24 It is our contention with reference to (1) that
25 the services that SUZUKI rendered while in the Army were

1 the customary and usual services of an Army officer and
2 for which he cannot be held responsible under any of the
3 Counts of the Indictment; for they were "performed
4 officially in accordance with the policy already
5 established* * *." (5) If the prosecution had not
6 attempted to make a mountain out of a mole hill by
7 referring to the activities of SUZUKI from 1931 to
8 April, 1941, we would feel justified in making no
9 reference to his activities during this period. However,
10 they having done so, we feel it incumbent upon us, in
11 justice to the accused, to refute seriatim the argu-
12 ments made by the prosecution during this period also.
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(5) T. 40539.

I. MILITARY AFFAIRS BOARD

12. In the course of SUZUKI's cross-
examination the prosecution referred to a document,
and inquired whether or not SUZUKI remembered the
document and whether or not he had handed this docu-
ment to MORISHIMA, Section Chief of the Asiatic
Affairs Bureau of the Foreign Ministry. SUZUKI
denied both. (7) The alleged delivery of a document
to MORISHIMA, even if proved, means nothing. It is
a routine liaison work between two Ministries. If
that is all, the defense may well leave this allegation
unanswered. The prosecution, however, not only
charges the accused with the delivery of the document
to MORISHIMA, but seems to endeavor to insinuate that
SUZUKI had something to do with the formulation of
the policy therein mentioned. It is therefore
incumbent on the defense to elucidate the situation
and show that the said charge and insinuation are
quite unfounded in view of the circumstances stated
below.

13. As the prosecution recognizes (8) SUZUKI
was despatched to Peiping some time after the conclusion
of the Tang-ku Agreement of 31 May, 1933. The decision

(6) Ex. 3607-A, T. 35,261
(7) T. 35,259
(8) T. 35,256

1 to make SUZUKI to proceed to Peiping must have been
2 made around the middle of June at the earliest. In
3 those days it took about 10 days for a return trip
4 to Peiping, and allowing the necessary time for
5 conducting his mission at Peiping he must be presumed
6 to have been still on his journey on 6 July, 1933,
7 when the War Ministry and the Army General Staff
8 approved the recommendations contained in that docu-
9 ment.

10 The policy indicated in the said document
11 is not only diametrically opposed to the ideas long
12 entertained by SUZUKI concerning Chinese affairs, but
13 contrary to the policy indicated in the three points
14 of Hwang Fu, which SUZUKI reported to his superiors
15 with approval, adding his own view that the solution
16 of various local issues in North China should be
17 undertaken by relying upon and trusting the various
18 North China organs of the Chinese and in cooperation
19 with the Chinese. (9) His view did not meet with the
20 approval of his superiors in the War Ministry, (10)
21 and it is significant that in August 1933 he was
22 removed to a post (Intelligence Corps of the War
23 Ministry), which could not deal with Chinese affairs. (11)
24

- 25 (9) T. 35,388-9
(10) T. 35,340
(11) T. 35,174

There were two other SUZUKIs, viz. Lieutenant
Colonel SUZUKI in the War Ministry and Lieutenant
Colonel SUZUKI in the Army General Staff. (12)

14. In view of the above circumstances it
is the contention of the defense that the alleged
delivery of the document to MORISHIMA must have been
made not by the accused but by one of the other
Lieutenant Colonel SUZUKIs, and that the accused did
not participate at all in the formulation - not to say
approve the policy indicated in the said document.
It is natural in such circumstances that the answers
of the accused to the two questions put by the
prosecution were both in the negative.

15. In connection with the Hu Lin testimony (13)
the prosecution contends that SUZUKI was deceiving Hu
Lin as to "the real policy of the War Ministry and the
Army General Staff," and makes a further and broader
accusation that SUZUKI's alleged sympathy with the
Chinese Nationalistic movement was "a sham". (14)

The defense submits that these allegations
are startling accusations and that without any evidence
whatsoever to support them.

16. In 1935 when Hu Lin and SUZUKI met,

(12) T. 35,340-1
(13) T. 3518-4
(14) T. 41,817

1 SUZUKI was conducting a heart-to-heart talk with his
2 old friend and he was expressing his private views,
3 as SUZUKI testifies. ⁽¹⁵⁾ He was not in any way
4 interpreting the current views of the War Ministry
5 and the Army General Staff. Of these Hu Lin, the
6 owner and editor-in-chief of the largest paper in
7 China, could and undoubtedly did judge for himself
8 in view of the then political developments in North
9 China, such as the North China Self-Government movement
10 and Ho-UMEZU Agreement, etc. SUZUKI himself was then
11 a cabinet investigator and an instructor of military
12 science in the War College and was certainly not in
13 an official position adequately to interpret "the
14 real policy of the War Ministry and the Army General
15 Staff." ⁽¹⁶⁾ No, SUZUKI was expressing his personal
16 conviction on Sino-Japanese friendship and his personal
17 sympathy to the Nationalist movement which never
18 suffered any change since his encounter with Hu Lin
19 in 1927. It must certainly be presumed that the
20 political view of a man like SUZUKI which had been
21 formed after his long experience and studies in Chinese
22 affairs can not so easily be changed by the adverse
23 currents of contemporary politics.
24

25 (15) T. 35,264-5

(16) T. 35,174

1 We are quite at a loss to understand, what
2 the alleged "evidence" is for making a surprising
3 charge against the accused that his sympathy with the
4 Nationalist movement is a sham. We remind the
5 Tribunal there is no such evidence, but the statement
6 is only an unjust and dogmatic assumption made by the
7 prosecution.

8 17. It is contended by the prosecution
9 that "as early as 1933 SUZUKI was, in fact, advocating
10 the expansion of Japan by means of aggressive war"
11 and that he is "attempting to conceal his real attitude
12 to serve his present purpose."⁽¹⁷⁾

13 And this allegation is made on two very weak
14 bits of evidence.

15 18. The one is a remark attributed to him
16 that Russia is an absolute enemy.⁽¹⁸⁾

17 This does not imply in any way an advocacy
18 of an aggressive war against Russia. It simply meant
19 as SUZUKI states in his affidavit that so long as
20 the Soviet Union aided and abetted the Third International
21 which plotted to effect a Communist revolution in
22 Japan involving the overthrow of such basic national
23 institutions as the Emperor-system, Russia was an absolute

25 (17) T. 41,819
(18) T. 41,818, Ex. 2253, T. 16,216

(19)
enemy.

To a Communist this statement might appear "reactionary," as similar statements by contemporary statesmen in America and England certainly would. The concern for the revolutionary activities of the Third International, however, was then quite common to Japanese liberals as well as to Japanese Conservatives, and there was nothing in such remarks as indicating a propensity to aggressive war on the part of the accused.

19. The second is TAKEBE's testimony which says SUZUKI made a speech which consisted in "laying the ground for the necessity for a war of Japan against the Soviet Union and for the necessity of capturing the Soviet Maritime Province and Siberia." (20)

The making of any speech by SUZUKI at the meeting of the Toyama military school was denied by SUZUKI himself, (21) which is corroborated by KOSAKA (22) who testified for the accused ARAKI. SUZUKI was at the function together with other officers of the War Ministry and was explaining to the War Minister's guests in an ante-chamber to the great Hall, the then military situation in Manchuria with the help of a number of maps. Such a procedure of making subordinates

(19) T. 35,231

(20) T. 41,818, Ex. 3371, T. 31,835

(21) T. 41,819, 35,232

(22) T. 36,985

explain to Ministry's guests concerning matters

1 within its charge is common usage in Japan. TAKEBE's
 2 memory is admittedly obscure, he himself confessing,
 3 "Naturally I do not remember the exact wording of
 4 the ARAKI's and SUZUKI's statements as many years have
 5 passed since then."⁽²³⁾ And TAKEBE's testimony itself
 6 was a vague one that SUZUKI "explained various problems
 7 of the international situation to lay the ground to
 8 the alleged necessity."⁽²⁴⁾

9 20. The above two evidence are certainly
 10 too weak to make the serious and astonishing charge
 11 that as early as 1933 SUZUKI was advocating the
 12 expansion of Japan by means of "aggressive war" --
 13 a gratuitous and fatuous argument unproved by any
 14 evidence whatever.
 15

16 Moreover, SUZUKI's conception of national
 17 defense vis-a-vis Russia is most eloquently expressed
 18 by his successful endeavors to prevent "border
 19 incidents" so that they will not develop into a major
 20 war between the two countries.⁽²⁵⁾

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 24 (23) T. 31,837
 25 (24) T. 31,835
 (25) T. 35,192-3

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21. It is also significant that throughout the entire record the prosecution has presented only isolated and sporadic instances, of an ambiguous kind two in number, of SUZUKI's attitude toward Russia, when on the other hand it makes no comment on the uncontradicted testimony concerning his successful efforts to prevent border incidents as indicated in the preceding paragraph.

II. CHINA AFFAIRS BOARD

22. In order to evaluate SUZUKI's behavior during his tenure of office in the China Affairs Board, it is necessary first to revise two erroneous assumptions which the prosecution seems to make.

23. It speaks of the China Affairs Board as a "powerful" Board.^{26.} This must be taken with the serious qualification that although the Board was established in order to check the arbitrary actions of the Army through its special service agencies in China, the Army continued such agencies even after the formation of the China Affairs Board.

The prosecution's witness OIKAWA testified about this situation by saying: "Local military commanders had as part of their staff a special service organization for effecting economic, political
26. Tr. 41826.

1 and cultural matters."²⁷. Moreover, there were
2 organs such as KAGESA and DOHIHARA agencies far more
3 powerful than special service agencies.²⁸ The China
4 Affairs Board was not in a position to obtain much
5 information of the activities of these military
6 agencies and the Board had no control over them. To
7 the extent that the policy decided on by the China
8 Affairs Board was often nullified on the plea of
9 military necessity by the military in China, the
10 China Affairs Board with its branch offices was an
11 innocuous body in its practical operations.

12 24. Secondly, the prosecution speaks of
13 SUZUKI as one of its important heads²⁹ which tends
14 to suggest that SUZUKI was responsible for major
15 policies formulated by the Board. This certainly is
16 an erroneous assumption. As a matter of fact
17 SUZUKI's position in the Board was a minor one.³⁰ The
18 Board was headed by the President, who was the Prime
19 Minister. He was assisted by four vice-presidents
20 composed of the heads of the Foreign, Finance, War
21 and Navy Ministries. Then came the Secretary General
22 whose function was to put into effect the decisions
23

24 27. Tr. 4771.

25 28. Tr. 39285, 40654.

29. Tr. 41826.

30. Ex. 455, Tr. 3183.

made by the President and Vice-Presidents.^{31.}

SUZUKI was a mere section chief under the Secretary General and was not in a position to formulate the policies of the Board. His duty was to help the Secretary General in the execution of such policies as already had been decided, so far as the functions of his own section were concerned.

25. The prosecution says that his alleged efforts toward minimizing interference and to bring about cooperation between China and Japan are unsupported by evidence.^{32.} Of course the three principles SUZUKI mentions in his affidavit^{33.} were by way of his own personal guide in exercising the authority assigned to him, and did not represent the policy of the Board. In the nature of things, no extrinsic evidence is available regarding a matter relating to his personal guide, and it must be admitted that his efforts in that direction did not bear much fruit and that chiefly because of the influence of the military agencies in China, i.e. because of the military situation as SUZUKI puts it in his testimony.^{34.}

31. Ex. 455; Tr. 3183.

32. Tr. 41817.

33. Tr. 3514.

34. Tr. 35194-5.

1 26. But his three principles are perfectly
2 consonant with his long-standing views in Chinese
3 Affairs.

4 His personal conviction was to come to terms
5 with Generalissimo Chiang Kai-shek regarding it unwise
6 to set up new regimes in China.³⁵ But the latter
7 policy was decided upon by the decisions of January
8 1938 and October 1938, in the formulation which he
9 was naturally not concerned at all.³⁶ As a section
10 chief there was nothing for him but to perform his
11 duties within the framework of that policy.

12 27. As for the WU Project SUZUKI was, of
13 course, not responsible for the formulation of such a
14 policy. A section chief did not attend the confer-
15 ence of the China Affairs Board at which decision on
16 such weighty matters was made.³⁷ His part concerning
17 that project was a mere routine work of his section
18 to convey to the Chief of the East Asiatic Bureau of
19 the Foreign Ministry and the China Affairs Board Branch
20 Offices in the China area the communications sent to
21 him from the War Ministry.³⁸

22 28. The giving of a letter to KAGESA who was
23

- 24 35. Tr. 35194.
25 36. Tr. 41821, 35270.
37. Tr. 35284.
38. Tr. 41823.

1 going to see Wang was also routine work. Secretary
2 General YANAGAWA who was the logical man to write such
3 a letter did not know Wang, and SUZUKI who knew Wang
4 wrote a letter at the request of the Secretary
5 General.^{39.}

6 29. The interview with Goette simply means
7 that SUZUKI frankly told the American correspondent
8 about his own view that the policy of the government
9 to deal with Wang was illusory, Chiang Kai-shek being
10 the only real ruler in China and that so long as Japan
11 could not come to terms with General Chiang Kai-shek
12 the war could not but go on⁴⁰ -- an intelligent view
13 which was indeed contrary to the official view of the
14 day, but one quite becoming SUZUKI, a liberal and a
15 China expert.

16 30. Unless we make the extraordinary
17 assumption that a military officer was committing a
18 wrong in executing the orders of his superiors because
19 they were contrary to his conceptions of policy, the
20 defense cannot see anything blameable in SUZUKI's
21 behavior during his service in the China Affairs
22 Board. It must be remembered that under the Japanese

23 39. Tr. 35287-8.

24 40. Tr. 42825, 3780, 38234.

1 law a military officer cannot resign of his own
2 accord or request to be removed to another post.
3 It is a significant fact that not only during his
4 service in the China Affairs Board but before or
5 after that period, SUZUKI was never known to have
6 written or spoken in public in support of the China
7 Incident.

8 31. The defense therefore considers it
9 preposterous for the prosecution to contend that
10 SUZUKI was "in favor of aggressive warfare in China
11 and was active in the exploitation of that country
12 and its resources."^{41.}

13 III. THE TRIPARTITE PACT

14 31-A. The prosecution has laid great
15 emphasis on the significance of the Tripartite Pact
16 and its relation to its claims for the development
17 of the alleged conspiracy in this case. It is in-
18 conceivable that one charged with participation under
19 practically all the counts of the Indictment from
20 1931 to 1941 could have nothing to do with this Pact.
21 Nevertheless, although this did not come within the
22 sphere of his functions in the China Affairs Board,
23 SUZUKI told GONCE that he objected to the conclusion
24 of the Tripartite Pact, and this fact is conceded by
25 41. Tr. 41826.

1 the prosecution.⁴² Not only this, but as an indi-
2 cation of SUZUKI's strong opposition to Nazi Germany,
3 and to the implications of this Pact, he went a
4 step further -- after the outbreak of the German-
5 Soviet War, he recommended to Prince KONOYE that it
6 would be better to terminate the Triple Alliance.⁴³

7 IV. THE PLANNING BOARD

8 32. After carefully reading the prosecution's
9 charges under this head, the defense cannot but feel
10 that language, especially when rendered into that
11 of a foreign country with a different social back-
12 ground, is often deceptive. And the defense regards
13 it essential to clarify some of the terms so that
14 there be no misunderstanding.

15 33. First, the term Cabinet Planning
16 Board may give the invidious impression that it was
17 the all-powerful central organ for controlling the
18 entire national economy, in military and civil
19 fields, and that for purposes of aggressive war!

21 As a matter of fact the Planning Board had
22 nothing to do with the planning not only of operation-
23 al but of economic affairs in the military sphere.
24 It was entirely in the dark as to how the materials
25 allocated to the armed services are or were to be

42. Tr. 35190, 41825. 43. Tr. 35191.

used.^{44.} This was a natural consequence of the system of independence of the Supreme Command peculiar to Japan. The planning did not, therefore, extend to the economic planning in the military sphere which was the exclusive business of the armed services themselves.^{45.} The only part which the Planning Board played was the amount of materials to be allocated to the Army and the Navy.

The planning was, therefore, confined to the non-military sphere. In this sphere the Planning Board was in a position to obtain information from the Ministries concerned as to how the materials allocated to them were or were not to be used.^{46.}

However, the Planning Board could not evolve a plan in an autonomous way and compel the Ministries to accept it. The plan could only be made by conciliating and coordinating the conflicting demands and subject to the approval of the various Ministries.^{47.}

The Planning Board had, moreover, nothing to do with the execution of such a plan which was the function of the respective Ministries.^{48.} It is, therefore,

44. Tr. 18362.

45. Tr. 35239-40.

46. Tr. 35239.

47. Tr. 35240.

48. Tr. 41827, 35240.

1 a grave error to describe the Planning Board as an
2 all-powerful body "controlling Japanese economy"⁴⁹. --
3 a picture which the Liebert testimony is apt to
4 convey. It was a body offering technical advice to
5 the Prime Minister in national economic matters,⁵⁰
6 although its president had the further task of
7 assisting the Prime Minister by the exercise of his
8 political ingenuity in conciliating and coordinating
9 departmental requirements to formulate an allocation
10 plan acceptable to all the Ministries.

11 34. Secondly, the military word "mobiliza-
12 tion" suggests that it is connected with war, and
13 the "economic mobilization" suggests mobilization
14 for a war to come. As a matter of fact the
15 "economic mobilization" with which the Planning
16 Board was entrusted simply means that resources be
17 effectively utilized or "mobilized" as to satisfy
18 national economic needs in view of the palpable
19 shortage of those resources.⁵¹ It is a metaphor
20 to indicate a trend opposite to that of laissez-
21 faire. It is true that national economic needs
22 comprised requirements of national defense, but the
23 word did not mean mobilization for a definite war
24

25 49. Tr. 41826, 8403, 35241.

50. Tr. 41827, Ex. 71.

51. Tr. 35197, 35239.

1 such as a war against the United States and Great
2 Britain as the prosecution seems to assume.

3 35. Thirdly, the prosecution certainly is
4 lacking in the sense of humor when it takes hold of
5 such phrases as "the strengthening of national
6 defense" and "war-time structure" used by the Plan-
7 ning Board, to prove that the Commodity Mobilization
8 Plan or other plans were in the nature of a "war
9 plan."⁵² It forgets that statesmen often use lan-
10 guage to conceal their thoughts rather than express
11 them. Taking the conditions of the country into full
12 account, it is patent to all intelligent persons that
13 SUZUKI was urging the Japanese people to direct their
14 endeavors towards an increase of production with a
15 view to tiding over the grave difficulties caused by
16 the economic severance effected by America, Britain
17 and the Netherlands.⁵³ The revelation of the real
18 economic difficulties caused by such severance would
19 certainly have turned the national sentiment against
20 the United States who would be stigmatized as the
21 primus mobile of such economic difficulties. This
22 would become a serious obstacle in the way of
23 American-Japanese negotiations, the success of which
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25 52. Tr. 41830, 41835.

53. Tr. 35237-8.

*SUZUKI heartily desired. 54.

36. The main contention of the prosecution is that SUZUKI was actively engaged in the formulation and execution of plans and preparations for aggressive war.

The prosecution here charges the Planning Board President not only with the formulation but with execution of the plans. But clearly the Planning Board had no responsibility for the execution of plans, as the prosecution itself seems to recognize by saying, "It is probably quite true. . . that the execution of such plans was not the responsibility of the Planning Board."⁵⁵ So the question narrows itself into one as to whether or not the Planning Board was engaged in formulating plans for aggressive war. And in view of the context it seems clear that by "aggressive war" the prosecution refers to the Pacific War. The prosecution does not certainly charge the President of the Planning Board with planning military plans for opening hostilities with America, Great Britain, etc., for that was a matter falling under the exclusive jurisdiction of the Supreme Command, and of which the Planning Board had no concern whatsoever.

54. Tr. 35239.

55. Tr. 41827.

1 So the question is whether the Planning Board made
2 its plans with the object of initiating the Pacific
3 War, not merely by taking into account exigencies
4 of national defense in view of the prevailing inter-
5 national situation. It is the contention of the
6 defense that those plans were certainly not made
7 with the view of opening hostilities against America
8 and her Allies.

9 37. If the planning had been made in order
10 to initiate the Pacific War, the allocation for the
11 Navy must have increased, for in a war against the
12 United States and Great Britain, the Navy would
13 necessarily have to play the major role, and consid-
14 erable loss of shipping must also be expected. But
15 we do not see any increase in the allocation for the
16 Navy in the Commodity Mobilization Plan for 1941.
17 The allocations for military use was determined with
18 main stress laid on the replenishing of the consump-
19 tion of the Army's munitions due to the troubles in
20 China and no increase in the allocation for the Navy
21 or in the way of increase in ship-building appears
22 in the said plan.⁵⁶ After the Imperial presence
23 Conference of 6 September, the Navy Vice-Minister
24 requested the Planning Board to modify the plan,
25 56. Tr. 35341.

1 demanding an additional allocation of 300,000 tons
2 of steel. The Planning Board refused to comply
3 with this demand, and the matter remained pending 57.
4 until the decision for war was taken on December 1.
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57. Tr. 35204.

1 38. The Commodities Mobilization Plan for
 2 1941 was accompanied with a plan for importing materials
 3 from America, Britain, and the Netherlands, calculated
 4 at FOB prices.⁵⁸ The plan for the above imports was
 5 naturally nullified by the economic severance, but the
 6 very fact that the Commodities Mobilization Plan pre-
 7 supposed imports from America, Britain and the Nether-
 8 lands and not any stoppage of such imports also goes
 9 to show that the Commodities Mobilization Plan for 1941
 10 was not a "war plan."

11 37. It is true that in the Commodities
 12 Mobilization Plan for 1941 the allocation for military
 13 purposes, especially for the army, was seemingly some-
 14 what increased as compared with the plan for the pre-
 15 vious year.⁵⁹ This, however, was due to the fact that
 16 the allocation for "indirect military use" which had
 17 in the previous plan been comprised under allocation
 18 for non-military use was included in the allotment for
 19 military use in the Plan for 1941. The seeming in-
 20 crease in military allotment was, therefore, merely
 21 apparent and did not, therefore, signify any real in-
 22 crease.⁶⁰ This also goes to show that the Plan for
 23 1941 was not a "war plan."
 24

25 58. Tr. 18,368

59. Tr. 35,239

60. Tr. 18,368

1 40. SUZUKI's main function as the Planning
2 Board President toward the fulfillment of which he did
3 his best until 1 December 1941 was to safeguard civilian
4 requirements by suppressing the exorbitant and insist-
5 ent demands by the armed forces.⁶¹ Immediately after
6 the assumption of his post, therefore, he set up a
7 section in the Board to investigate by scientific
8 methods the quantities of materials absolutely required
9 for the nation's livelihood.⁶² Backed by accurate
10 figures he vigorously resisted the demands made by the
11 armed forces in favor of those for general civilian
12 requirements. He succeeded in persuading the army and
13 navy to concede a substantial reduction of 40 to 50
14 per centum of their original demands.⁶³ How on earth
15 can such behavior as the President of the Planning
16 Board be interpreted as having been actively engaged
17 in the formulation of plans of aggressive war?
18

19 41. The prosecution also refers to the
20 Traffic Mobilization Plan of 5 September, 1941, and the
21 Workers Mobilization Plan of 13 September, 1941.⁶⁴
22 These plans were simply normal economic control plans
23 necessitated by the straitened conditions of national
24 economy created by the outbreak of the German-Soviet War

25 ⁶¹. Tr. 35,197
⁶². Tr. 35,197-8
⁶³. Tr. 18,365
⁶⁴. Tr. 41,835

on the one hand and the economic severance effected by
America and her Allies on the other.⁶⁵ Certainly it
was not a "war plan."

42. The prosecution refers to the Key Industrial Control Ordinance of 30 August 1941 and the Imperial Petroleum Company Ordinance of 15 March 1941.⁶⁶ These ordinances simply are manifestations of a general world-wide drift towards controlled economy which was especially necessitated by the straitened conditions of Japanese economy due to years of large-scale military engagements with China. They have nothing to do whatever with the Pacific War. The policy itself was decided on and the ordinances themselves were enacted before SUZUKI's assumption of office, although the former ordinance came into effect and the Imperial Petroleum Company⁶⁷ was organized during his incumbency.

43. The Five Year Plan which SUZUKI took over from his predecessor and revised was a general long-range plan to build up Japanese civilian economy on the principle of self-supply. Such a drift towards autarky is a part of world-wide trends toward bloc-economy, in view of which Japan considered herself compelled to plan her economy in terms of self-supply.

⁶⁵. Tr. 35,237-9, 35,297-8

⁶⁶. Tr. 41,835-6

⁶⁷. Tr. 35,240-1

1 This Plan has certainly nothing to do with the initia-
2 tion of war against the United States and its allies.

3 44. The establishment of the Stationary
4 Economic Investigation in the Japanese Consulate in
5 Fanoi and Saigon⁶⁸ and the dismantling of the oil in-
6 stallations by the army and navy,⁶⁹ even if they might have
7 come to the knowledge of SUZUKI, were certainly matters
8 which were entirely beyond the control of the Planning
9 Board.

10 45. The answers of the Planning Board to the
11 three problems, the study of which was ordered by the
12 Prime Minister KONOYE were of such a nature as would
13 tend to discourage any idea of war with the United
14 States.⁷⁰ The report made by SUZUKI to the Emperor on
15 29 September 1941 referred to by the prosecution is
16 exactly of the same tenor.⁷¹

17 45-A. With regard to the Sixth Committee
18 referred to in paragraph 64, it must be noticed that
19 SUZUKI was appointed its chairman on 2 December, 1941,
20 when the national decision for war had already been
21 made. SUZUKI's work as chairman of the said Committee
22 is, therefore, essentially distinct in character from
23 his work as the President of the Planning Board prior
24

25 ⁶⁹. Tr. 41,834

⁷⁰. Tr. 41,833-4, 35,200

⁷¹. Tr. 41,838, 35,242

to 1 December, 1941.⁷² The accused does not deny that
 1 after national decision had been made he did his best
 2 to make that war a success. It is plain that if Japan
 3 is ever to dare challenge the combined forces of America
 4 and Britain with their vast resources she must acquire
 5 and exploit resources of the Southern Areas as a war
 6 measure.⁷³

46. The prosecution mentions four occasions
 8 on which SUZUKI attended the meetings of the Privy
 9 Council.⁷⁴ Unlike Ministers of State with Portfolio,
 10 SUZUKI had no vote in the Privy Council, his capacity
 11 being simply that of an explainer, i. e., to make such
 12 necessary explanations as might be ordered by the Min-
 13 ister in charge, in SUZUKI's case the Prime Minister.⁷⁵
 14 This incidentally shows that SUZUKI as President of the
 15 Planning Board was treated as being a grade lower than
 16 the ministers for the departments. This also shows
 17 that SUZUKI's title of Minister of State was more or
 18 less ornamental. It gave prestige and dignity to his
 19 post, but his proper function was to perform the essen-
 20 tially administrative duties of the Planning Board
 21 President, assisting the Premier under the control of
 22 the latter.⁷⁶ His responsibility for general affairs

25 72. Tr. 41,836

73. Tr. 35,244-5

74. Tr. 41,837-8

75. Tr. 83, organization of
the Privy Council, Art. 11

76. Tr. 35,196

1 of state was more or less nominal and certainly less
2 heavy than that of the ordinary ministers of state.

3 47. The first occasion mentioned was a
4 meeting in July 1941, which discussed matters relating
5 to the conclusion of a protocol between France and Japan
6 with regard to the defence of French Indo-China. The
7 matter was mainly within the competence of the Foreign
8 Minister and Ministers for the defence services, and
9 SUZUKI naturally was not asked to make any explanation. 77

10 47-A. This was related to the despatch of
11 troops to Southern Indo-China. In paragraph 53-54 the
12 prosecution seems to hold SUZUKI responsible as one of
13 the Cabinet Ministers who decided to despatch the
14 troops. This may be nominally so, in the sense of
15 collective (political) responsibility of the cabinet,
16 even if it was not a matter within the competence of
17 SUZUKI. When he was told by KONOYE that troops might
18 be despatched he voiced the view from an economic
19 standpoint that it would be a serious matter if Japan
20 was subjected to embargo in consequence of such a step. 78
21 The Prime Minister told him that the step was necessary
22 to ward off an immediate danger of war with the Soviet
23 Union and that since the move was not directed against
24

25 77. Tr. 41,837, 7069, 7074
78. Tr. 41,832, 35,198

1 America or Britain, America would understand if he ex-
 2 plained the matter.⁷⁹ SUZUKI was not an expert in diplo-
 3 macy, and was quite justified to rely on the judgment
 4 of his colleagues who were better informed and not to
 5 push his view to the point of resigning, of which
 6 latter step the prosecution seems to require of him.⁸⁰
 7 Moreover, it may be noted that, in view of the situa-
 8 tion of domestic politics then prevailing, if SUZUKI
 9 resigned, his resignation would have placed KONOYE in
 10 an extremely awkward position and would have strengthened
 11 MATSUOKA's position. As a matter of fact, KONOYE put
 12 MATSUOKA outside of the cabinet through resignation en
 13 bloc. SUZUKI's failure to resign is quite unimpeachable
 14 also from the standpoint of practical domestic politics.
 15 As to criminal responsibility, the defense entirely
 16 denies any responsibility on the part of SUZUKI.

17 It may here be noted that SUZUKI is not
 18 indicted under count 33.

19 48. The second and third occasions were at
 20 the meetings of 8 and 11 December 1941.⁸¹ They were
 21 after the war had already commenced and the matters
 22 brought before those meetings were concerned with
 23 the prosecution of the war.

24 ⁷⁹. Tr. 35,199
 25 ⁸⁰. Tr. 41,832
⁸¹. Tr. 41,837-8

1 49. The fourth occasion was his attendance
2 at the investigation committee meetings of the Privy
3 Council. The subject was "the Organization of the
4 Greater East Asia Ministry." ⁸² The issue regarding
5 the new establishment of such a ministry was one con-
6 cerning mainly the administration of occupied areas --
7 whether or not it was better as a war measure to or-
8 ganize a new ministry for such purpose. The Foreign
9 Minister TOGO naturally opposed a measure which spelled
10 curtailment of the competence of his ministry, and
11 probably also from diplomatic considerations. The
12 Cabinet Board Presidents considered that the establish-
13 ment of a new ministry with a new staff was better than
14 leaving the work to the Foreign Ministry as heretofore
15 from the standpoint of more efficient administration.
16 There was nothing of right or wrong in the moral sense
17 for supporting the one or the other, the issue being
18 essentially a question of administrative expediency.
19 The stand of the government on this disputed question
20 having finally been decided upon, it was perfectly
21 proper for SUZUKI to explain, on behalf of the Prime
22 Minister, and as an explainer, the views of the govern-
23 ment at the meetings of Privy Council Committee, and
24
25 82. Tr. 41,838

1 also that the government had no intention to change
2 the name of the ministry.⁸³ He is not to be blamed
3 for drawing upon the then current popular slogan,
4 "the establishment of Greater East Asia,"
5 to explain and uphold the policy already fixed by the
6 government. It may be noted that this domestic
7 struggle for jurisdiction ending in the separation
8 of the Foreign Ministry and the Greater East Asia Min-
9 istry was later solved when the Foreign Minister
10 SHIGEMITSU became concurrently the Minister for the
11 latter ministry.
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gV. LIAISON CONFERENCE

1 50. The defense does not deny that SUZUKI
2 attended many of the Liaison Conferences at which
3 important decisions were arrived at. Neither does the
4 defense deny that SUZUKI was during the period a
5 Minister without Portfolio. The prosecution seems to
6 assume that those two facts are enough to impose
7 criminal responsibility upon the accused, irrespective
8 of the part he played in the conferences he attended
9 and whether or not his behavior actually contributed
10 in any way to the outbreak of the Pacific War. The
11 defense, however, is confident that the Tribunal
12 will reject such a notorious and oppressive doctrine
13 of "guilt by association" based on sheer assumption,
14 that it will abide by the eminently sound doctrine
15 that guilt is personal and scrutinize the exact part
16 SUZUKI played in those conferences in order to deter-
17 mine whether or not his behavior can be characterized
18 as "criminal." The defense, therefore, will endeavor
19 to assist the Tribunal in that investigation by elucidat-
20 ing certain aspects of the actual functioning of the
21 Liaison Conference and the part which the President
22 of the Planning Board played in its sessions.
23

24 51. The fact that SUZUKI attended the Liaison
25 Conferences in the capacity of the President of the

1 Planning Board, a subordinate administrator under the
2 control of the Prime Minister, naturally made it
3 impossible for him to state his personal opinions in
4 conflict with the Premier's.⁸⁴ Accordingly, the defense
5 desires to call the Tribunal's special attention to the
6 fact that SUZUKI's position at the said conference was
7 quite different not only from that of the Prime Minister,
8 the War, Navy and Foreign Ministers, but even from that
9 of the Finance Minister, who attended the conferences
10 in his independent capacity as a Cabinet Minister.

11 52. It is not denied that the Liaison Confer-
12 ence was an important meeting based on constitutional
13 conventions at which an understanding was arrived at
14 between the Government represented by the Prime Minister
15 and the High Command. It was certainly not a policy-
16 deciding organ over and above the Cabinet, and this is
17 shown by the fact that it was customary to postpone the
18 execution of the decisions arrived at until the approval
19 of the Cabinet had been obtained.⁸⁵ However, vis-a-vis
20 the Supreme Command, political and moral responsibility
21 certainly rested on the Prime Minister and the Ministers
22 in charge who attended the Conference especially the
23 Foreign Minister (in relation to the Japanese-American
24 diplomatic negotiation which was the main theme before
25

84. T. 35,202

85. T. 41840, 35,203

1 the outbreak of the Pacific War) to persuade their
2 colleagues in the Cabinet to agree to the understanding
3 arrived at, and it was natural that the other Ministers
4 placed confidence in the Prime Minister and in the
5 Foreign Minister within whose competence the Japanese-
6 American relations lay.⁸⁶ Such political or moral
7 responsibility, of course, was not assumed by the
8 President of the Planning Board who attended the con-
9 ference as technical assistant to the Prime Minister to
10 elucidate such economic matters as fell within the
11 competence of the Board.

12 53. The position of the President of the
13 Planning Board in the Liaison Conference can be further
14 clarified by the following facts:

15 First, TOGO testified that "the drafts of the
16 decisions of the Liaison Conference were always prepared
17 beforehand -- the matters were examined by the staffs
18 of the ministries concerned and coordinated by the three
19 secretaries before they were submitted to the Conference."⁸⁷
20 TOGO's testimony is further confirmed and supplemented
21 by SUZUKI's testimony on this point: "Before subjects
22 for discussion were submitted to the Liaison Conference
23 considerable study and investigation on these matters had
24

25 86. T. 41,840-1, 35,320

87. T. 35,677-8

1 been given to it by the officials of the War, Navy, and
2 Foreign Ministry, and therefore it was not usual for
3 people not connected with these ministries to make any
4 remarks on these subjects."⁸⁸

5 This means that the Planning Board was not
6 generally consulted in formulating the proposals to be
7 referred to the Liaison Conference.

8 54. Second, TOGO testified that "the copies
9 of all important cablegrams were automatically routed
10 by the Foreign Ministry to the War and Navy Ministries
11 and the General Staffs through the Military and Naval
12 Affairs Bureau."⁸⁹

13 This means that copies of such cablegrams were
14 not given to such Ministers as the Finance Minister or
15 the President of the Planning Board, with the consequence
16 that they were less informed about the American-Japanese
17 negotiations than, for instance, Chiefs of Military and
18 Naval Affairs. This throws light on the position of the
19 President of the Planning Board, especially in matters
20 relating to American-Japanese negotiations.

21
22 55. Third, it is apparent that there were
23 some Liaison Conferences to which such men as KAYA and
24 SUZUKI were not invited. This is clearly the case with

25 88. T. 35,303

89. T. 35,707

the Liaison Conferences of 11 and 13 November 1941.

1 According to the testimony of YAMAMOTO, who
2 testified that he attended every one of the Liaison
3 Conferences which were held during the period between
4 the establishment of the TOJO Cabinet and the outbreak
5 of the Pacific War, a document entitled "Principal
6 Reasons for the Commencement of Hostilities against the
7 United States and Britain,"⁹⁰ was adopted at a liaison
8 conference⁹¹ and is dated 11 November 1941. Now on
9 the cover of that document it appears that only five
10 copies of the document were made. And there can be no
11 doubt that the five persons to whom the document was
12 intended to be handed over were the Prime Minister, the
13 Foreign Minister, who was also the War Minister, the Navy
14 Minister, and the two representatives of the Supreme Com-
15 mand referred to in the exhibit.⁹² 1103.

17 Again, according to the testimony of TOGO,
18 exhibit 919, a document entitled "Basic Principles for
19 Rapid Conclusion of War against the United States,
20 England and the Netherlands"⁹³ was adopted at the
21 Liaison Conference of 13 November 1941.⁹⁴ Again it
22 appears on the cover that only five copies of the docu-
23

24 90. Ex. 1175, T. 10,362

93. T. 9,261

91. T. 26,057

94. T. 35,703

25 92. T. 10,171

1 ment were issued. This shows that the document was
2 deliberated on by the same five persons alone. It may
3 also be presumed that the document entitled "Measures
4 towards the Foreign Countries"⁹⁵ adopted on the same
5 day must have been discussed by the Big Five.

6 It may be concluded that there were some
7 Liaison Conferences such as the above two conferences,
8 at which SUZUKI's presence was not required.

9 56. All these facts go to show that SUZUKI
10 was stating the exact truth when he testified that he
11 attended the Liaison Conferences as a technical assist-
12 ant to the Prime Minister.⁹⁶ He was not in any way
13 minimizing the part he played in the Liaison Conference
14 to meet the purpose of the present trial, as the
15 prosecution surmises.

16 57. The fact, moreover, that SUZUKI was not
17 consulted even regarding the amount of oil to be
18 requested of America at the time of agreement on the
19 A and B proposals,⁹⁷ a topic which might possibly be
20 regarded as falling within the purview of the Planning
21 Board, throws a side light on the insignificant part
22 played by SUZUKI regarding American-Japanese negotiations
23

24 95. Ex. 1169, T. 10,333;

Ex. 876, T. 10,366 the same document

25 96. T. 41,840, 35,202, 35,301

97. T. 35,703

1 which formed the major topic of the Liaison Conferences
2 immediately prior to the outbreak of the Pacific War.

3 58. Of the Liaison Conferences the prosecu-
4 tion claims that SUZUKI attended, the defense denies
5 that SUZUKI attended the Liaison Conferences of 11 and
6 13 of November, 1941 for the reasons already mentioned.
7 It is true that SUZUKI stated, in answer to the prosecu-
8 tion: "After the establishment of the TOJO Cabinet
9 Liaison Conferences were held continuously up to the
10 end of November, and I attended all these conferences."⁹⁸
11 This must be interpreted to mean that he attended all
12 the conferences to which he was invited. He did not,
13 of course, attend the Liaison Conferences of the Big
14 Five at which his presence was not asked.

15 The defense denies also that SUZUKI attended
16 "the Liaison Conferences of the first week in December
17 when the terms of the Final Note were discussed."⁹⁹

18 59. There is no evidence whatever that SUZUKI
19 went beyond his capacity as technical assistant to the
20 Premier and expressed his opinion on matters which were
21 beyond his purview. As TOJO states, he "had a voice"
22 in the conference,¹⁰⁰ but SUZUKI "voiced" his views to
23 the conference only on matters which were within the
24

25 98. T. 41,841, p. 35,304

99. T, 41,842-3, p. 41,856-7

1 jurisdiction of the Planning Board, and was not in any
2 way active in discussing matters which fell within the
3 jurisdiction of the Foreign or other Ministers.

4 60. As technical assistant to the Prime Minister
5 SUZUKI's function was to explain economic matters in an
6 objective way. This involves a statement of facts
7 known to the Planning Board and an economic prophesy
8 based on those facts. He cannot be held responsible
9 for a statement of a semi-scientific kind, whatever its
10 consequences, unless indeed he distorted such facts, of
11 which there is no evidence whatsoever. Moreover the
12 Report of the Planning Board made to the Prime Minister
13 TOJO¹⁰¹ shows that it presented not a rosy but a highly
14 pessimistic picture of Japanese economy. It suggested
15 that whether there was war or no war, Japanese economy
16 would be in a predicament unless Japan came to terms
17 with the United States.

18 61. What is stated in paragraph 75¹⁰² (TOGO's
19 statement in the course of cross-examination) is, it is
20 submitted, a tendentious picture of what took place in
21 the Liaison Conference of 1 November. What actually
22 took place was that SUZUKI did not voice any opposition
23

24 100. T. 41,843, 36,266

25 101. T. 41,850-1, 35,215-9

102. T. 41,841.

103
to the Prime Minister as his chief. The matter
discussed was essentially one which did not directly
concern the Planning Board and of which SUZUKI was not
competent to express any independent judgment.

62. It may be concluded that SUZUKI was not
expected to play or did play any important part in the
American-Japanese negotiations in or out of the Liaison
Conferences. He attended those conferences only as
technical assistant to the Prime Minister. There is no
evidence that SUZUKI in such capacity or otherwise
behaved in such a way as to be instrumental in bringing
about the Pacific War. He, on the contrary, always
wished for and expected that the negotiations would be
successful. The defense feels that there can not be
the slightest reason for charging such a man with any
crime, simply because he attended Liaison Conferences
and that to assist the Prime Minister in elucidating
the economic situation of the country.

VI. THE MEETING AT OGIKUBO ON 12 OCTOBER 1941

63. The Ogikubo Conference of 12 October was
one convened by the Prime Minister to persuade the War
Minister to avoid war by a frank exchange of views
between the Ministers concerned. SUZUKI's testimony
on the character of this conference stands uncontra-

dicted. His presence at the conference to record the
1 proceedings could not be impugned in any way. But the
2 prosecution charges that SUZUKI was minimizing his
3 importance.¹⁰⁵ This assumption is not only unfair,
4 but is contradicted by the prosecution's own evidence,
5 namely, a portion of TOJO's interrogation, in which it
6 was stated by TOJO that its important members were the
7 War, Navy and Foreign Ministers, as well as the Prime
8 Minister, and that he did not even remember whether the
9 President of the Planning Board was there or not.¹⁰⁶
10 The meeting was a secret one and the Chief Secretary
11 of the Cabinet, TOMITA, or any other secretary of the
12 Prime Minister, was not allowed to be present. The
13 logical person to be invited in such circumstances to
14 record the proceedings was SUZUKI, who was KONOYE's
15 trusted subordinate and friend and who assumed a
16 ministerial rank. This was not to be wondered at in
17 view of the fact that KONOYE often made use of SUZUKI
18 to do the work of a secretary for him, e.g., as a
19 messenger to TOJO or KIDO.¹⁰⁷ SUZUKI was not attend-
20 ing the conference as the President of the Planning Board
21 to report on economic matters nor to participate in the
22 discussion which was to be conducted as between the
23
24

105. T. 41,844

106. T. 10,271

107. T. 35,203 et seq.,
35,243

1 Prime Minister, War, Navy and Foreign Ministers. SUZUKI
2 is telling the plain truth about his doings in the
3 conference not in any way endeavoring to minimize his
4 importance; his part in the conference was not, in fact,
5 important. It is, therefore, highly misleading for
6 the Prosecution to conclude, in paragraph 85, that "he
7 was one of those persons active in the discussions
8 leading up to the outbreak of war."¹⁰⁸

9 THE PRESIDENT: We will recess for fifteen
10 minutes.

11 (Whereupon, at 1045, a recess was
12 taken until 1100, after which the proceedings
13 were resumed as follows:)
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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Levin.

Mr. LEVIN: Mr. President. If the Tribunal
please, I continue with Subdivision VII, The Fall of
the Third KONOYE Cabinet.

64. SUZUKI fully testified in his affidavit
(109)
concerning the above subject; the testimony was not
contradicted by the prosecution. The prosecution sum-
marized SUZUKI's detailed account in his affidavit,
supplemented by further facts elicited by cross-
examination, without any suggestion that his statement
(110)
was wrong at any point.

65. SUZUKI's testimony shows in the first
place that KONOYE had much confidence in SUZUKI and
employed him in the highly important liaison work with
TOJO, KIDO and HIGASHIKUNI.

66. During this period SUZUKI acted strictly
as messenger. It is to be seen, however, that SUZUKI
offered his own suggestions to KONOYE, KIDO, and
HIGASHIKUNO but not to TOJO. Those suggestions were
all in the nature of bringing the American-Japanese
negotiation to success and avoiding Japan's drift into
war. First, he ultimately succeeded in having Prime

(109) T. 35,208-12

(110) T. 41,846-9

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(109) T. 35,208-12

(110) T. 41,846-9

1 Minister KONOYE and Lord Keeper KILO, who were directly
 2 in a position to do so, to get the Emperor to rescind
 3 the decision made before the Imperial Presence on 6
 4 September 1941. The defense submits that this in
 5 itself was no small achievement on his part in the
 6 cause of peace. Secondly, he together with KONOYE
 7 made every effort that a new cabinet be formed with
 8 Prince HIGASHIKUNI as Premier. (111) It was not ques-
 9 tioned by the prosecution that the Prince was an en-
 10 thusiastic advocate for the continuation of the Jap-
 11 anese-American negotiations and often encouraged the
 12 Premier KONOYE to do his level best to bring them to
 13 success.

14 67. The "activities of SUZUKI in this period"
 15 and "the political maneuvers" in which SUZUKI is said
 16 by the prosecution to have been engaged (Para. 94) (112)
 17 were of the nature above described.

18 They were activities or maneuvers not at all
 19 worthy of censure, on the contrary of a laudable kind.
 20 And the fact that SUZUKI "had an intimate knowledge
 21 possessed by few people of what was going on behind
 22 the scenes in Japanese politics leading to the TOJO
 23 Cabinet" was entirely due to SUZUKI's personal intimacy

24 (111) Testimony of Prince HIGASHIKUNI. T. 35,169,
 25 et seq., 35,208-9)

(112) Para. 94. T. 41,849

1 with KONOYE which caused the latter to employ him in
2 the important liaison work and does not furnish any
3 reason whatsoever for accusing SUZUKI in any way.

4 VIII. THE TOJO CABINET

5 68. The prosecution concludes this topic as
6 follows:

7 "The prosecution submits that the willingness
8 of SUZUKI to serve in the TOJO Cabinet leads to the
9 irresistible conclusion that he was willing to plunge
10 Japan into war, a conclusion which is supported by his
11 subsequent conduct."⁽¹¹³⁾

12 The defense wonders how such a daring con-
13 clusion can ever be drawn from the facts which are not
14 controverted by the prosecution.⁽¹¹⁴⁾

15 69. Paragraph 95 summarizes the uncontra-
16 dicted testimony of SUZUKI elucidating the circum-
17 stances in which SUZUKI joined the TOJO Cabinet. We
18 quote one paragraph of this testimony.

19 "Marquis KIDO has telephoned me (i.e. Premier
20 KONOYE) that TOJO is to form a cabinet. At the same
21 time, he is to receive word from His Majesty to carry
22 on the American negotiation, wiping the September 6
23 decision off the slate. Accordingly, TOJO will, I
24 believe, check the war faction and proceed with the
25

(113) T. 41,853

(114) T. 41,849

1 American negotiation. So, you will do well to remain
2 in office and help him in case he asks you to do so.
3 If the new cabinet comprises many members of my cab-
4 inet, it will show that the new cabinet desires to
5 carry on the negotiations for peaceful settlement of
6 the difficulties between Japan and the United States." (115)

7 The entry of SUZUKI into the TOJO Cabinet in
8 such circumstances certainly cannot be interpreted as
9 evincing SUZUKI's "willingness to plunge Japan into
10 war."

11 70. In paragraph 96 reference is made to
12 SUZUKI's answer in the course of cross-examination
13 to the question as to whether he thought that TOJO
14 would be able to check the faction. (116) SUZUKI's answer
15 must surely be taken to have been in the affirmative. (117)

16 He stated that it was not TOJO himself but the
17 Army war faction that was urging war. It was quite
18 reasonable for SUZUKI to think that TOJO, a military
19 man receiving the Imperial command and backed by the
20 Imperial prestige would check the Army so as to effect
21 peaceful settlement.

22
23 71. Paragraph 97 refers to TOJO's injunction
24 to SUZUKI at the time of joining the Cabinet mentioned

25 (115) T. 35,212-3
(116) T. 41,849
(117) T. 35,300

(118)

in SUZUKI's affidavit which is uncontradicted:

1 "It is my (i.e. TOJO's) desire that you con-
2 centrate your energy on the work of economic mobiliza-
3 tion (i.e. the work of the Planning Board) and not to
4 meddle in political affairs. You should especially
5 keep in mind that the President of the Planning Board
6 is to function under the control of the Prime Minister." (119)

8 The statement in the second sentence on the
9 position of the President of the Planning Board was
10 true of SUZUKI's status both in the KONOYE and the
11 TOJO Cabinets. (120) The Prime Minister was primus inter
12 pares, or the first among equals, with regard to Cab-
13 inet Ministers, but the President of the Planning Board,
14 though enjoying the status of a Minister without Port-
15 folio, was a subordinate administrator functioning
16 under the control of the Prime Minister. An injunction
17 not to meddle in political affairs differentiated
18 SUZUKI's political status from that in the KONOYE Cab-
19 inet. He was relegated to the status pure and simple
20 of an administrator, i.e. a technical assistant to the
21 Premier.

22 SUZUKI states that he followed this injunction
23 and concentrated his energy on the work of the Planning
24

25 (118) T. 41,850
(119) T. 35,214
(120) T. 35,213

(121)
Board but this certainly can never be interpreted that
he was "willing to plunge Japan into war."

72. Paragraphs 98 to 101 summarize the Report
of the Planning Board to questions put to him by the
Prime Minister.
(122)

The report is a faithful and objective state-
ment on facts known to the Planning Board coupled with
a prophesy which was based on those facts. But there
was nothing in the report which tended to instigate
Japan's plunge into war. On the contrary the report
suggested that in case the American-Japanese negotiation
unfortunately failed, then war or no war, Japanese
economy would be confronted with tremendous difficul-
ties.
(123) This is not contradicted by the prosecution.
The report was one of the factors for making Premier
TOJO to decide to persuade the Supreme Command to con-
tinue the negotiation.
(124)

So these paragraphs again do not show that
SUZUKI was "willing to plunge Japan into war."

73. In paragraphs 102 to 107 the prosecution
refers to SUZUKI's understanding of the decisions of
the Imperial Presence Conference of 5 November 1941 as

(121) T. 35,214
(122) T. 41,850-1, 35,215-9
(123) T. 35,219
(124) T. 35,219

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(123) This is not contradicted by the prosecution. The report was one of the factors for making Premier TOJO to decide to persuade the Supreme Command to continue the negotiation.
(124)

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(121) T. 35,214
(122) T. 41,850-1, 35,215-9
(123) T. 35,219
(124) T. 35,219

(125)
fully stated in his affidavit.

1 The prosecution seems to challenge SUZUKI's
2 statement to the effect that the recognition of the
3 withdrawal of troops made the conduct of negotiations
4 more favorable than at the time of the KONOYE Cabinet,
5 by pointing out that the withdrawal did not contem-
6 plate an immediate or complete withdrawal. (126) But
7 America would not have expected a complete or imme-
8 diate withdrawal which would not only have been disas-
9 trous to Japanese legitimate rights and interests in
10 China but physically impossible. The withdrawal if
11 to be effected must necessarily be by stages. What
12 America really feared was the permanent stationing of
13 Japanese troops in China which would virtually spell
14 the eventual conquest of China. The recognition of
15 the withdrawal of troops in principle means that Japan
16 assures America that she is not bent on the conquest
17 of China. The question regarding the conditions for
18 or stages in the withdrawal of troops involves on
19 Japan's part that they may not be such as to jeopardize
20 her legitimate rights and interests in China, and on
21 America's part that they be such as are adequate for
22 making Japan's assurance to her an effective one. So
23 the question was a proper one to be fixed by diplomatic
24

(125) T. 41,851-3, 35,219-22

(126) T. 41,852

1 negotiations. Moreover, it was SUZUKI's understanding
2 that the conditions laid down could be changed accord-
3 ing to the progress of the negotiations. (127) So even if
4 the withdrawal was one only in principle and not imme-
5 diate or complete but subject to certain conditions
6 does not vitiate SUZUKI's statement that it made the
7 conditions for successful negotiation more favorable
8 than during the KONOYE Cabinet. For during the latter
9 period even the withdrawal of troops in principle was
10 not recognized.

11 74. His understanding of the decision of
12 the Imperial Conference of 5 November was a common
13 sense one. He thought that the decision was not a de-
14 cision for war; it was a preliminary agreement to make
15 such decision in early December. In the meanwhile the
16 negotiation was to be accelerated. In case the nego-
17 tiation should not be concluded by early December, it
18 did not necessarily mean war, for the decision can again
19 be annulled in conformity with the precedent set by
20 the annulment of the decision of the Imperial Presence
21 Conference of 6 September 1941. The conditions for
22 successful negotiation became more favorable than dur-
23 ing the KONOYE Cabinet by the recognition by the
24 Supreme Command of the withdrawal of troops from China
25 (127) T. 35,310

1 and Southern Indo-China. He, therefore, felt "not so
2 much that the war became imminent but that a new pros-
3 pect of peace had arisen on the horizon." (128) It must
4 be remembered in this connection that SUZUKI was not
5 an expert on diplomacy, nor did the Foreign Minister
6 supply him with copies of important cables. (129) After
7 all he had to rely on the judgment of the Prime Minis-
8 ter and the Foreign Minister. The defense contends
9 that he was perfectly honest and sincere in such under-
10 standing and that no conclusion can be drawn there-
11 from that "he was willing to plunge Japan into war."

12 75. In view of the foregoing considerations
13 the defense submits that there is not the slightest
14 evidence to support the assertion that "the willing-
15 ness of SUZUKI to serve in the TOJO Cabinet leads
16 to the irresistible conclusion that he was willing to
17 plunge Japan into war."

18 If by "a conclusion which is supported by
19 his subsequent conduct" the prosecution means his
20 assent given to the opening of hostilities on 1 Decem-
21 ber 1941 or his acts in relation to the execution of
22 the Pacific War, the defense must point out that those
23 acts are essentially of a category entirely different
24 from his acts prior to the decision for war, and can
25

(128) T. 35,222

(129) T. 35,767

1 not serve as evidence for elucidating the nature of the
2 behavior of the accused before that date.

3 IX. THE IMPERIAL CONFERENCE

4 76. The prosecution says: "It is enough to
5 say that SUZUKI cannot escape from assuming responsi-
6 bility for his share of the responsibility for the
7 decision for war on 1 December 1941." (130)

8 If by "responsibility" the prosecution means
9 criminal responsibility, the defense categorically
10 denies such responsibility. The defense is confident
11 that the Tribunal will reject the doctrine of Criminal
12 Implied Agency in capital cases which the prosecution
13 assumes, and abide by the enlightened doctrine of
14 criminal jurisprudence that guilt is personal. If the
15 latter theory is to be recognized by the Tribunal, there
16 is not the slightest evidence in the record regarding
17 SUZUKI's behavior in these conferences which can be
18 interpreted as being morally or legally culpable.

19 X. THE DECISION FOR WAR

20 77. So long as the Tribunal abides by the
21 doctrine that guilt is personal, there is no basis
22 whatsoever for asserting that SUZUKI "cannot escape
23 (criminal) responsibility for the decision to wage
24 aggressive war contrary to the principles of
25 (130) T. 41,854

international law."

1 78. The defense contends in the General Sum-
2 mation that Japan acted in self-defense in initiating
3 the Pacific War and was not engaging in an "aggressive
4 war" in violation of the principles of international
5 law. a Whatever the verdict of the Tribunal on
6 this general question of international law, there is
7 at least no room for doubt that SUZUKI himself honestly
8 believed that decision for war was for the defense of
9 his country, which is not contradicted by the prosecu-
10 tion. That should be enough to exculpate him. Even
11 if it is assumed that a further condition is to be
12 required, viz., that the belief must be based on
13 reasonable grounds (which the defense regards as not
14 valid as a theory of criminal jurisprudence),⁽¹³¹⁾ SUZUKI's
15 belief⁽¹³²⁾ must be pronounced to have been based on reason-
16 able grounds.
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25 (131) T. 42,238-9
 (132) T. 35,223-5

79. SUZUKI, who was not an expert in diplomacy
relied with reference to the nature of the Hull note
on the judgment especially of the Foreign Minister
who can be assumed to possess ex officio superior
knowledge about such matters. The Prime Minister and
the Foreign Minister both declared that the Hull note
of 26 November 1941 was tantamount to an ultimatum,
demanding Japan immediately to evacuate the armed and
police forces from the whole territory of China, in-
cluding Manchuria, and also demanding the renunci-
ation of the Manchurian and Nanking Governments. ¹³³

80. TOGO had, moreover, been the very man
who in the Liaison Conference prior to the decision
of the Imperial Presence Conference of 5 November
1941 so vigorously opposed the position of the Supreme
Command. This is apparent from the testimony of TOGO
himself and of SUZUKI. ¹³⁴ TOGO was by no means a man
in favor of war. This same man now declared that the
Hull note was tantamount to an ultimatum. SUZUKI
had, therefore, no ground for doubting TOGO's veracity.
Neither was he in a position to challenge the accuracy
of his expert analysis of the Hull note.

81. He had also been informed by the Supreme
Command that America and Britain were strengthening

(133. T. 36127 TOGO, 36356 TOJO
134. T. 35211)

1 their armed forces in the Western Pacific and that
2 delay would spell a disaster to the defense of the
3 country.¹³⁵

4 82. In these circumstances, it was quite
5 natural and reasonable for SUZUKI honestly to believe
6 that the opening of hostilities was unavoidable for
7 the defense of the country. He had indeed to acknow-
8 ledge the fact reluctantly, for he had cherished a
9 strong desire and had been doing what he could to
10 facilitate the success of the diplomatic negotiations.¹³⁶

11 83. It may also be noted in this connection
12 that SUZUKI was not fully advised of the diplomatic
13 negotiations which were being carried on. He was not
14 shown the telegram from Ambassadors NOMURA and KURUSU¹³⁷
15 nor the personal message from the President of the
16 United States to the Emperor.¹³⁸ Accordingly he was
17 in no position to doubt the character of the note in
18 question as explained by the Prime Minister and the
19 Foreign Minister.

20 84. The prosecution makes some points with
21 reference to SUZUKI's disinterest as to the contents
22 of the final note to the United States or of the plans
23 for the commencement of hostilities on 8 December 1941

24 (135. T. 35225
25 136. T. 41856, 35190
137. Ex. 1189, T. 10418
138. T. 35707, 35727 et seq.)

1 and that his explanation for the failure to notify
2 the United Kingdom of the commencement of hostilities
3 is unworthy of consideration.¹³⁹ We submit, on the
4 contrary, that there is no evidence in the record
5 which might indicate any responsibility on the part
6 of SUZUKI in relation to these matters. He had nothing
7 to do with operational matters; he had nothing to do
8 with the technique in diplomacy; his only function
9 being that of head of the Planning Board which was
10 the making of plans for the allocation of materials.

11 85. It is, therefore, the contention of the
12 defense that SUZUKI honestly and reasonably believed,
13 in giving his assent to the decision on 1 December
14 1941 that the opening of hostilities was inevitable
15 for the defense of the country. And all his actions
16 after the making of the catastrophic national decision
17 must also be interpreted on the same hypothesis.

18 Whether or not the Pacific War was an aggressive or
19 defensive one according to the canons of international
20 law, it is amply clear that SUZUKI cannot ever be held
21 criminally responsible in the light of the canons
22 of enlightened criminal jurisprudence, for giving his
23 assent to the decision for war, or for his subsequent
24 conduct in relation to the execution of that war.

25 (139. T. 41859)

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22 of enlightened criminal jurisprudence, for giving his
23 assent to the decision for war, or for his subsequent
24 conduct in relation to the execution of that war.

25 (139. T. 41859)

1 Certainly he had no mens rea or guilty mind to initiate
2 or execute an "aggressive war."

3 XI. PRISONERS OF WAR

4 86. The prosecution has endeavored in
5 exhibit 1971-A, a document entitled "Monthly Report
6 of Foreign Affairs," to give an impression as if the
7 Planning Board had been concerned in the employment
8 of POW's. But it was clarified by the testimony of
9 witness KAMEYAMA that these documents were neither
10 done up by nor even distributed to the Planning
11 Board.¹⁴⁰ The contents of the documents are extremely
12 inaccurate, being based on hearsay information.

13 87. The prosecution has already proved by
14 the testimony of its witness TANAKA that the decision
15 upon the transport and employment of POW's was made
16 by the War Ministry toward the end of April, 1942¹⁴¹
17 and not shared by any other person, and that the
18 location of the prisoner's barracks was done by the
19 Military Affairs Section of the Military Affairs
20 Bureau¹⁴² and not shared by any other person.

21 88. The meeting, as stated in paragraph 127
22 of the prosecution summary, was held by the officials
23 of the Prisoners Information Bureau, after these

24 (140. T. 35162
25 141. T. 14288
142. T. 14286)

1 were actually made, to explain the principles to the
2 representatives of the ministries concerned in a room
3 borrowed from the Planning Board.¹⁴³ This meeting was
4 not aimed at reaching any conclusion on debate, but
5 aimed at communicating a part of what the War Ministry
6 had previously decided. The Planning Board had per-
7 mitted the use of a room according to custom to
8 facilitate the meeting by calling the representatives
9 of the ministries concerned for the convenience of the
10 Prisoners Information Bureau.

11 89. All the orders relating to the procedure
12 for the employment of POW's were drawn up by the War
13 Ministry.¹⁴⁴ According to these orders, it was neces-
14 sary in case of employing POW's within the Army, to
15 obtain the approval of the War Minister by the applica-
16 tion of the Army commander exercising control of the
17 Prisoners barracks. In case of dispatching POW's to
18 engage them in labor outside the Army, it was provided
19 that the candidates should apply for the permission of
20 the War Minister. The former procedure belonged to
21 matters exclusively within the purview of the Army,
22 and was secretly taken without informing any govern-
23 ment office thereof. In case of the latter also, it

24 (143. T. 35162-3
25 144. Ex. 1965, T. 14440 et seq., esp.)

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24 (143. T. 35162-3
25 144. Ex. 1965, T. 14440 et seq., esp.)

1 was provided that the War Minister's permission should
2 be granted in the shape of secret orders, just as
3 Exhibit 1970-A was marked "Army Secret (ASTA. No. 3129)"
4 on its last line of the first page.¹⁴⁵ The Planning
5 Board was not in a position to know where the prisoners
6 were employed.

7 90. Thus although the Planning Board had
8 authority to draw up plans of labor supply, it had
9 no authority whatsoever over the supply of or demands
10 for the labor of POW's nor was any information available
11 to the Board as to where they were engaged in labor.
12 It was customary for every ministry to demand of the
13 Planning Board the allocation of the amount of labor
14 minus the part to be met by the POW's, or to mention¹⁴⁶
15 merely the amount of the Japanese labor required.
16 As SUZUKI testified,¹⁴⁷ "the various ministries con-
17 cerned notified the Welfare Ministry as well as the
18 Planning Board of the number of laborers available from
19 the general labor supply after the prisoners of war
20 had been deducted." It must particularly be noted
21 that the planning for allocation by the Planning Board
22 was, therefore, concerned with Japanese labor alone
23 not of POW labor at all.

24 (145. T. 14499
25 146. T. 35321
147. T. 35321)

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91. The only evidence adduced by the prosecution in relation to any connection of the Planning Board with POW's was the exhibit 1971-A mentioned above. The witness KAMEYAMA, director of the Third Division⁽¹⁴⁸⁾ of the Planning Board from November 1941 to July 1943, testified that the Planning Board was not invested with any authority in relation to the management of POW's, and the Planning Board did not formulate any principles for the transfer and employment of POW's. He further testified that the request for holding a meeting in the room of the Planning Board came from the POW Information Bureau. KAMEYAMA further testified that he approved the loan of the conference room but did not notify the President or the Vice-President of the Planning Board of such a routine matter.⁽¹⁴⁹⁾ It is submitted, therefore, that this charge against SUZUKI on the basis of the tenuous evidence of the prosecution is entirely groundless. For it is amply clear that the Planning Board had nothing whatsoever to do with the employment of POW labor, and that its planning for allocation of labor was confined to Japanese labor only.

XII. PRESENTATION OF DECORATIONS.

92. The prosecution makes a point in relation to the decoration granted by Germany to SUZUKI.⁽¹⁵⁰⁾

148. T. 35,162.
149. T. 35,164.

150. T. 41,861-2.

SUZUKI's antipathy to Nazi Germany is evidenced by his objection to the Tripartite Pact and the granting of this decoration was based merely on a unilateral account on the part of the Germany Ambassador. (151)
 We invite the attention of the Tribunal to exhibit 3034, the testimony of Kretschmer, former Germany Military (152) Attache in Japan. He stated as follows:

"* * * Usually, the Japanese officers thus mentioned to me for a German decoration did not know anything about it themselves and were often surprised when they received the order. German decorations were given neither as a reward nor as a bribery but as an act of diplomatic courtesy without much significance."

93. The tenuous value of this point is indicated by the fact that in making the recommendation, it was made even though SUZUKI was considered "ambiguous toward Germany." (153) It may also be noted that SUZUKI declined the invitation to the invitation to the investiture and that at a time when war had already been (154) commenced and Germany and Japan were fighting as Allies.

94. As stated by the prosecution, several Japanese decorations were conferred upon SUZUKI. However, one class of decoration was conferred on all

- 151. T. 27,091.
- 152. T. 27,093.
- 153. T. 11,353.
- 154. T. 35,241.

1 colonels in active service without any special merit
2 and the other was conferred on all major generals in
3 active service also without any special merit. (155) This
4 testimony stands uncontradicted.

5 XIII. CONCLUSION.

6 95. In fine, we submit that the defendant
7 SUZUKI cannot be held guilty under any of the charges
8 under the Indictment. On the contrary, the claim that
9 SUZUKI as early as 1932 participated in the alleged
10 over-all conspiracy charged in counts 1 to 5, is not
11 based on any evidence. The prosecution has distorted
12 a few sporadic expressions of views or normal official
13 activities of the accused between 1931 and 1941 and
14 contends that these indicate his guilt. Not only does
15 this evidence not meet the test of "proof of guilt
16 beyond a reasonable doubt," but does not meet any test
17 of evidence which would permit an adverse finding as
18 to him. The evidence simply indicates that his activi-
19 ties were the customary and usual ones of a man who
20 devoted his life to military service and such additional
21 civilian assignments as are frequently given to military
22 men by their governments. Not only is there a lack
23 of proof of SUZUKI's guilt on the basis of this evi-
24 dence, but as a matter of fact the evidence as
25 155. T. 35,250.

correctly evaluated is most persuasive in his favor. .

96. In this connection and in connection with our discussion on the two periods of SUZUKI's activities, we direct the attention of the Tribunal to the statement of the prosecution:

"* * * no man has been charged with either crimes against peace or conventional war crimes and crimes against humanity unless he is in some way responsible for the aggressive policy followed by Japan, which gave rise to those crimes. No man has been charged in this proceeding because of any act committed or any statement made by him in the course of his official duties pursuant to an already-established policy if those matters were his only connection with that aggressive policy. * * * He has been charged with such crimes only if he participated in the formulation of the aggressive policy of the government, or if he, in the first instance, induced the aggression which was subsequently made the policy of the government * * *"

We believe that the activities of SUZUKI covering his two periods of service: (1) in the army until 1941 and (2) his services as President of the Planning Board in the second and third KONOE cabinets and TOJO cabinet come well within this statement by the 156. The Liability of Defense 2,
T. 40,539.

question is, what will its impact be on the generations
1 to come, and what effect will it have on the world to
2 be? The world is already much smaller. Milton
3 expressed it much better than he knew when he said, "The
4 earth, a spot, a grain, an atom." We now submit this case
5 with supreme confidence in the Tribunal.
6

7 Mr. Mattice will continue.

8 THE PRESIDENT: Mr. Mattice.

9 MR. MATTICE: May it please the Tribunal,
10 on behalf of the accused ITAGAKI we desire to say:

11 In regard to the essential nature of the so-
12 called Manchurian Incident which started with the Mukden
13 Incident, the prosecution, in counts 1, 18 and 27 of
14 the Indictment, and also in its opening statement,
15 accused the defendant ITAGAKI and other defendants to
16 the effect that Japan instituted and waged a war of
17 aggression against China by obtaining the military, as
18 well as political and economic, control of her pro-
19 vinces of Liaomin, Kilin, the Amur, and Jehol, and
20 by establishing a puppet government which was controlled
21 by the Japanese Government and manipulated by the
22 Kwantung Army, thereby making these provinces the base
23 for going into the adjacent regions in China.
24

25 As to this accusation, the evidence in this
case shows that the resonance of the current

1 did not rest with the defendants since the action taken
2 by the Japanese Army was prompted by self-defense for
3 the protection of the lives and interests of the Japan-
4 ese residents and interests; the creation of a Manchurian
5 Government was due to the spontaneous movement of the
6 Manchurians; this Manchurian Government was not a puppet
7 government; and Japan did not make Manchuria the base
8 for the purpose of invading adjacent regions in China.

9 While availing ourselves of the general
10 argument made by other counsel concerning the whole of
11 the Manchurian Incident, which is equally applicable to
12 ITAGAKI, we wish to say the following in his behalf,
13 individually:

14 A. During the Period He Was a Staff Officer
15 of the Kwantung Army.

16 Prior to the Mukden Incident.

17 Defendant ITAGAKI was appointed staff officer
18 of the Kwantung Army on May 1, 1929, and held that post
19 until July 30, 1932. The Commander-in-Chief of the
20 Kwantung Army at the time of the Manchurian Incident was
21 Lt. General HONJO, Snigeru, and the Chief of Staff was
22 Major General MIYAKE, Mitsuji.^{1.} The movements of the
23 Kwantung Army before and after the incident were made
24 within the bounds of the authority of the Commander-in-
25 1. Ex. 3316, Tr. 30,254.

Chief under the Regulations of the Kwantung Army's Headquarters.^{1.} The duties and privileges of the Commander-in-Chief, the Chief of Staff, and the staff officers were defined by the Regulations. The duties of ITAGAKI, as a staff officer, were to maintain contact between staff officers and to manage the staff office, and also to attend to liaison business of the army.^{2.}

The Discipline of the Kwantung Army after Chang Tso-lin's Death.

The witness ISHIHARA, Kanji, testified that "after Chang Tso-lin was killed, there had been some criticism, in Japan, of the Kwantung Army, and so the leaders of the army by issuing a strict warning demanded the utmost circumspection in the movement of the army, and especially Colonel ITAGAKI, as a staff officer, correctly and carefully managed the staff office so that they were quite confident that there would be no misbehavior on the part of the army."^{3.}

The prosecution, alleging that the so-called March Incident and the October Incident had some connection with the Manchurian Incident, intimated that ITAGAKI had been involved in these incidents. These

1. Ex. 2415, Tr. 19,554.
2. Ex. 3316, Tr. 30,254.
3. Ex. 2584, Tr. 22,116.

1 two incidents had no connection with the Manchurian
2 Incident, and the defendant ITAGAKI had absolutely no
3 concern with them.

4 The defendant HASHIMOTO told this Tribunal
5 that: "I participated in the so-called March Incident
6 which had been planned by Dr. OKAWA for the purpose
7 of forming a new cabinet with General UGAKI, Issei, as
8 the Premier in order to bring about the reconstruction
9 of Japan in March 1931. This plan was not realized
10 because of Mr. UGAKI's disapproval, and the affair
11 had nothing to do with the Manchurian Incident."^{1.}

12 Furthermore, he said: "I planned the so-called
13 October Incident which was to form a new cabinet with
14 Lt. General ARAKI as the Premier, in October of the
15 same year, and urged Mr. ARAKI to do so. Contrary to
16 my expectation, however, I was severely reprimanded
17 by him, and I was arrested by the military police by
18 order of War Minister MINAMI and was prosecuted.

19 "This incident had no connection with the Man-
20 churian Incident. The October Incident was primarily
21 conceived early in October between Captain CHOYU, who
22 had just returned to Tokyo from Peiping, and myself,
23 but was stopped while the plan was still in my head, as
24 I was arrested before it was carried out."^{2.}

25 1. Ex. 3195, Tr. 28,790.

2. Ex. 3195, Tr. 28,793-4.

The defendant KOISO deposed as follows:

1 "As far as I know, I have never heard that any officer
2 of the Kwantung Army had any concern with either the
3 March or the October Incident."^{1.}

4 The witness ISHIMURA, Kenji, told this
5 Tribunal: "The officers of the Kwantung Army had
6 no connection with the so-called March Incident.
7 Nor were they members of the Society known by the
8 name of Sakura Kai."²

9 Further, he said: "At the time of the so-
10 called October Incident which happened right after
11 the Manchurian Incident, the Kwantung Army kept
12 its head cool, and I who was bent on fulfilling my
13 duties as well as all other officers and men, had
14 never participated in scheming such an incident as
15 this."^{3.}

16 The witness KATAKURA, Chu, said: "As there
17 was an inquiry from Tokyo on 18 October whether
18 there was any scheme on the part of the Kwantung
19 Army to become independent of the Japanese Army, I
20 made an investigation. There was, however, nothing
21 of the sort in the Kwantung Army, which fact was
22 telegraphed to the War Minister and the Chief of the
23 General Staff by HONJO, Commander-in-Chief. General
24
25

1. Ex. 3375; T. 32265; 2. L. 22115-6.
3. T. 2. 1

1 SHIRAKAWA too was afraid of such a scheme, I thought,
2 but as it was clarified that there had been no such,
3 there was no further investigation into this matter." 1.

4 The defendant ITAGAKI testified that: "I
5 had no concern whatever with the so-called March
6 Incident or the October Incident. I did not know
7 even of the existence of such a society as Sakura Kai.
8 As for Dr. OKAWA, I had neither met nor correspond
9 with him for five or six years prior to the Incident
10 on September 18." 2

11 From that evidence it is clear that the so-
12 called March and October Incidents had no connection
13 with the Manchurian Incident, and that the defendant
14 ITAGAKI had no connection whatever with these two
15 incidents.

16 In exhibit No. 2177-A (the deposition of
17 OKAWA), it was stated that defendant DOIHARA was one
18 of those who had been involved in the October Incident, 3.
19 but nothing was told of what connection he had or of
20 the actual facts. It was purely a conclusion on his
21 part and has no evidentiary value.

22 Defendant KOISO pointed out that the court
23 exhibit No. 2177-A was erroneous. 4. According to the

24 1. T. 18950-1.
25 2. T. 30323.

3. Ex. 2177-A, T. 15587.
4. Ex. 2275, T. 32214.

1 deposition of OKAWA, "The Manchurian Incident was
2 started from the destruction of the Manchurian
3 Railroad at Liutiokon on 18 September 1931. The
4 then cabinet was that of SHIDEHARA's interim and the
5 policy of the cabinet was never established . . .
6 General ARAKI was not connected with the October
7 Incident."^{1.}

8 Everybody knows that the Manchurian Incident
9 occurred, not during the period of SHIDEHARA's interim
10 Cabinet but of WAKATSUKI's Cabinet. It is also
11 clear that the October Incident occurred in order to
12 make General ARAKI Premier, and that it was stopped
13 because of the General's wish not to be made Premier.
14 Since he commits such a grave error as this, Mr.
15 OKAWA's deposition cannot be relied upon to ascertain
16 the truth of the matter. It must be noted that he was
17 then already mentally deranged.

18 The True Condition of the Kwantung Army.

19 The defendant ITAGAKI testified: "In China,
20 since 1925, a movement for the recovery of alleged
21 lost national rights had been started and anti-
22 Japanese actions became increasingly active. In
23 Manchuria also there occurred violations of Japan's
24 1. Ex. 2177-A, T. 15585-8.
25

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25

1 rights and interests. In 1928 the Chang Hsueh-liang
2 regime affiliated with the Nanking Government, changed
3 the Manchurian colors, and adopted the "blue-sky and
4 white sun" ensign, letting influences of the Chinese
5 Nationalist Party penetrate into Manchuria. The
6 anti-Japanese movement there was organized under the
7 direction of the Kuomintang and government offices,
8 and it became very active and intense. The Japanese
9 rights in Manchuria were infringed and the Japanese
10 nationals were squeezed into the belt-like strip
11 along the South Manchurian Railway. The extreme
12 pressure against the Korean immigrants, violence and
13 oppression of the Japanese and obstruction to commu-
14 nication, etc., were intensified and increased in
15 number. In spite of the earnest and sincere coopera-
16 tive policy of Foreign Minister SHIDEHARA, no prospect
17 for relaxation of the anti-Japanese activities in
18 China was in sight, and the situation was continuously
19 aggravated. Just before the outbreak of the Incident,
20 several hundred questions were pending.^{1.}

21
22 "On the other hand, in the military field,
23 Chang Hsueh-liang, since taking office as the Vice-
24 Commander of the Kuomintang Army in the fall of 1928
25 planned to strengthen and reorganize the army under
1. Ex. 3316, T. 30255-6.

1 his control, increased the strength of the standing
2 army to two hundred odd thousand, enlarged the scale
3 of the Mukden Arsenal, equipped the army with such
4 modern arms as tanks and aeroplanes, and strengthened
5 the system of discipline. Thus he endeavored to raise
6 both the quality and the quantity of his army and, as
7 a result, as compared with the Kwantung Army at that
8 time, not only in its strength but in its equipment,
9 his army was far superior to it.

10 "Since then the anti-Japanese sentiments
11 gradually influencing the Chinese troops, they assumed
12 a contemptuous attitude toward the Japanese troops, and
13 as the anti-Japanese sentiments of the officers and men
14 became very vigorous, there was a fear that there
15 might occur a collision between the Chinese and the
16 Japanese troops. Moreover, the disposition of the
17 Chinese troops was changed so as to encircle our
18 garrison areas along the South Manchurian Railway,
19 and the Kwantung troops, which had been placed dis-
20 persedly, fell into a situation extremely dangerous
21 from the military point of view. That is to say,
22 while no more than ten odd thousand Kwantung troops,
23 with the inferior equipment and formation, had been
24 stationed dispersedly, still on peace time footing, in
25 the area almost one thousand kilo . . . along

1 the South Manchurian Railway, they came to be placed
2 under siege by the large force of two hundred thousand
3 odd Chinese troops, equipped with superior arms,
4 burning with anti-Japanese zeal, and assuming a most
5 provocative attitude. And if we were to avoid the
6 collision, there was no solution for us except to
7 abandon all the special rights and interests we had
8 in political, economic and military fields generally. 1.

9 HONJO, Shigeru said: "In August 1931, I
10 assumed the post of the Commander-in-Chief of the
11 Kwantung Army. The anti-Japanese sentiments which
12 had been growing intense and active for some time,
13 had become worse by this time, and such unfortunate
14 incidents as the murder of Captain NAKAMURA and
15 Sergeant-Major ISUGI, the massacre of Korean farmers
16 by both Manchurian troops and people, and the Man-
17 paoshan Incident were taking place one after another.
18 "While the solution of the situation was still pending,
19 the general conditions of Manchuria were becoming
20 more and more apprehensive. The gravity of apprehen-
21 sion deepened when I assumed my post. Violence and
22 oppression of the Japanese nationals were intensified
23 and increased in number, and obstruction by all means
24 to the military maneuvers which the Kwantung Army was
25 1. Ex. 2043, T. 19254-5.

1 rightfully assured of by the treaties occurred to such
2 an extent that the outdoor training of the troops,
3 which was the life of the army, was virtually nulli-
4 fied. Insults and violence committed on our officers
5 and men as well as our nationals both in day time and
6 at night, in the streets and villages, were still
7 more intensified, and untoward incidents and unlawful
8 acts became countless. Because of such a situation
9 when I assumed my post, the crisis might be expected
10 to come at any moment."¹

11 According to the testimony given by ISHI-
12 HARA, Kanji, the situation was as follows: "The
13 officers and men of the Kwantung Army were insulted,
14 oppressed and obstructed at their garrison duties of
15 railways and in their maneuvers and on other innumer-
16 able occasions. The Japanese troops, far inferior
17 in equipment and number as they were still on peace-
18 time footing, had to face the Chinese troops superior
19 in number and arms and burning with anti-Japanese
20 sentiments. While there were no diplomatic measures
21 being taken for the solution of countless questions
22 pending, only there being lip service for the easing
23 off the tension, the situation remained as fearful
24 as a volcanic mountain at the point of eruption. And
25 1. Ex. 2584, T. 22110, 22116.

1 having witnessed, on one hand, the actual conditions
2 of anti-Japanese sentiments, especially the burning
3 zeal of the Chinese Army against the Japanese Army, the
4 violence committed on the Japanese nationals, and, on
5 the other, the failure of diplomatic negotiations
6 between the two countries, despite the cooperative
7 policy of Japan, and the public opinions in both
8 countries becoming stronger than ever, all the officers
9 and men of the army from the Commander-in-Chief down
10 to the private came to the conclusion that a collision
11 of arms was now inevitable."^{1.}

12 According to the testimony given by TANAKA,
13 Ryukichi, "The condition prior to the Mukden Incident
14 was a state of undeclared war."^{2.}

15 From such evidence in regard to the then
16 existing situation in Manchuria, it is clear that a
17 collision of arms provoked by the Chinese Army was
18 inevitable.

19 The Kwantung Army endeavored to the utmost
20 to avoid the collision of the two armies.

21 According to the testimony of the defendant
22 ITAGAKI, "the situation between Japan and China at
23 that time was the collision between the two conflicting
24

25 1. Ex. 2584, T. 22110, 22116.

2. T. 2092.

1 demands, the recovery of China's alleged lost rights
2 and the maintenance of our rights and interests, and
3 the solution of the situation seemed extremely diffi-
4 cult unless either the Japanese or Chinese would con-
5 cede or compromise. But the Chinese had no intention
6 at all to compromise and the situation was such that
7 anti-Japanism by force of arms would be inevitable.
8 The Kwantung Army, however, tried hard to avoid the
9 friction with the Chinese, sought all means of appease-
10 ment, admonished our officers and men to be patient
11 and cautious, prohibiting any rash acts."^{1.}

12 According to the testimony of the witness
13 ISHIHARA, Kanji, when HONJO, the Commander-in-Chief,
14 came to take his office in August, 1931, in view of
15 the frequent occurrences of such incidents as Captain
16 NAKAMURA's case, the incident of Wampooshan, the
17 collision of men in various garrison areas, etc., and
18 appreciating the gravity of situation, he admonished
19 his officers and men to be patient and cautious,
20 prohibiting any rash acts."^{2.} ISHIHARA further testi-
21 fied to the effect that in spite of the fact that the
22 murder of Captain NAKAMURA was a serious case, the
23 Kwantung Army hoped its solution would be attained by
24

25 1. Ex. 3316, T. 30257-8.
2. Ex. 2584, T. 22112-3.

1 diplomatic negotiations. The case was solved through

2 the diplomatic negotiations as they had expected.

3 The fact shows that the Kwantung Army tried its
4 utmost to avoid any friction with the Chinese. 1.

5 THE PRESIDENT: We will adjourn now until
6 half-past one.

7 (Whereupon, at 1200, a recess
8 was taken.)
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1. T. 30325-.6.

AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at 1330.

2 MARSHAL OF THE COURT: The International
3 Military Tribunal for the Far East is now in session.

4 THE PRESIDENT: Mr. Mattice.

5 MR. MATTICE (Continued):

6 The Kwantung Army Adopted an Emergency Measure.

7 According to the testimony given by defendant
8 ITAGAKI, "although the Kwantung Army tried hard to
9 avoid friction with the Chinese by seeking all means
10 of appeasement, admonishing our officers and men to be
11 patient and cautious, and prohibiting any rash acts,
12 it became necessary for the Army to work out an
13 emergency counter-measure in case of collision between
14 the Japanese and the Chinese troops, which might
15 happen by positive military actions on the part of
16 the Chinese. The Kwantung Army, in order to deal with
17 the pressing situation of its troops, wished to
18 replete its equipment, but this desire was not approved
19 by the central authorities of the army. Therefore,
20 the Kwantung Army mapped out a plan with the then
21 existing strength and equipment, without getting
22 assistance from the central authorities since the
23 previous year. They established a plan of operations

1 that in case of collision between the Chinese and
2 the Japanese troops, the Kwantung Army would concentrate
3 its main forces in the vicinity of Mukden and deliver
4 a heavy blow to the nucleus of the Chinese forces in
5 Mukden, and thus by sealing the fate of the enemy,
6 would settle the matter within a short period. They
7 decided to make preparations necessary for education,
8 training, communication, transportation and other
9 things, in accordance with the above plan, and to
10 make up for the shortcomings of the fighting power
11 by utilizing the material for military operations,
12 which could be found in Manchuria, to the best possible
13 advantage. It was a part of that plan that they set
14 two heavy guns in the premises of the Mukden Independent
15 Garrison Barracks in Mukden. These guns were those
16 which became needless as the result of scaling down
17 of the fortifications of Port Arthur, and were
18 appropriated."^{1.}

19 Defendant ITAGAKI further said: "For working
20 out plans of operations, there was an officer in charge,
21 and the will or views of superior officers through
22 the directives and orders from the Headquarters
23 were taken into account. I was not directly concerned
24 with the matter."^{2.}

(1) Ex. 3316, T. 3025-9

(2) T. 30,339

Witness ISHIHARA, Kanji testified: "Because
1 the situation in Manchuria became so serious, especially
2 the anti-Japanese sentiment of the Chinese Army
3 became so strong that there was a danger of collision
4 between the Japanese and the Chinese troops, military
5 preparations for an emergency had to be made with the
6 object of solving the situation by a force of arms
7 in accordance with the directives and orders given
8 from the central authorities of the army during the
9 past several years. Thus a plan of operations was
10 established that in case of collision between the
11 Chinese and the Japanese troops, the Kwantung Army
12 would concentrate its main forces in the vicinity
13 of Mukden and thrust a heavy blow to the forces
14 gathered in and around Mukden and, in accordance with
15 this plan, necessary preparation for education, training,
16 transportation and many other things were made. In
17 order to accomplish this difficult task by our
18 small forces against the vast number of the enemy,
19 it was necessary for the Army to be very cautious in
20 making plans and preparations, to strengthen the
21 unity of the Army, and to be exact in training. And
22 in view of conditions of the Army being inferior in
23 equipment and number and there being no hope of getting
24 reinforcement from the central authorities of the
25

1 army, the Kwantung Army tried to make up for the
 2 shortcomings of the fighting power by utilizing the
 3 material for military operations, which could be
 4 found in Manchuria, to the best of advantage. The
 5 setting of two heavy guns in the premises of the
 6 Mukden Independent Garrison Barracks in Mukden was
 7 but an instance of this utilization." ^{1.}

8 In reply to a question in cross-examination
 9 the witness ISHIHARA, Kanji said: - "What I stated
 10 in my deposition that the Kwantung Army would concentrate
 11 its coming forces in the vicinity of Mukden and
 12 thrust a blow to the Chinese forces gathered in and
 13 around Mukden, meant that this was the only possible
 14 operation for the Army to find the way out of death,
 15 and as there was no reinforcement coming which we had
 16 asked, we tried our best in fulfilling our duties." ^{1.}

17 He further stated: "Neither the central
 18 authorities of the army nor the Kwantung Army hoped
 19 that the problem would be solved by a force of arms." ^{2.}

20 And then he testified as follows: "I stated
 21 in my deposition that all the officers and men from
 22 the Commander-in-Chief to Staff officers and unit
 23 commanders came to the conclusion that collision of
 24

25 (1) Ex. 2584, T. 22,111-3
 (1) T. 22,178
 (2) T. 22,183

1 arms was now inevitable, because we thought that the
2 military actions on the part of the Chinese were so
3 positive and active that we should be obliged to be
4 acted upon by them. This does not mean that we would
5 take any initiative at all events." 3.

6 It is true that the Kwantung Army prepared
7 an emergency counter-measure at that time, but its
8 plan of operations had been made in accordance with
9 the directive and orders from the central authorities
10 of the army, changing customarily from year to year,
11 and reporting accordingly. Moreover, it is clear
12 that these plans had been framed for the purpose of
13 defense, and never positive military operations, as
14 they should be carried out only in case of attack
15 from the Chinese on the occasion of collision between
16 the Japanese and the Chinese troops.

17 B. The Mukden Incident.

18 ITAGAKI's Behavior at the Special Service
19 Section Office. Coming of Major-General TATEGAWA
20 and ITAGAKI's Meeting with Him.

21 According to the testimony of ITAGAKI, he
22 accompanied Commander-in-Chief HONJO on his informal
23 inspection trips of the troops under his command, and
24

25 (3) T. 22,195-6

1 finished the trips with the inspection of the troops
2 located at Liaoyan on 18 September 1931. On the
3 same day Commander-in-Chief HONJO was informed by
4 the Chief of Staff MIYAKE that Major-General TATEKAWA,
5 the Chief of the First Department of the General Staff
6 Office, was coming to Mukden; and that MIYAKE requested
7 him to send ISHIKAWA or ITAGAKI, Staff officers, to
8 Mukden to meet the Major-General. Commander-in-Chief
9 HONJO ordered ITAGAKI to go to Mukden; accordingly,
10 ITAGAKI went to Mukden from Liaoyan. Toward evening
11 that day Major-General TATEKAWA arrived, and he
12 greeted and talked with him. The Major-General was
13 quite tired, besides, since he was scheduled to stay
14 there for a few days, he did not mention his business
15 immediately except a few words to the effect that the
16 superiors were worrying about the careless and
17 unscrupulous conduct of the young officers. ITAGAKI
18 answered that there was no need of worrying if that
19 was the business and, remarking that he would hear
20 him at leisure the next day, he took leave.^{1.}

21 According to the testimony of witness
22 ISHIHARA, Kanji, on 18 September Commander-in-Chief
23 HONJO was informed that Major-General TATEKAWA
24 was coming to Mukden for the purpose of liaison.
25 (1) Ex. 3316, T. 30,260

1 So, on the same day toward evening, after inspection
2 of the troops was finished, Commander-in-Chief HONJO
3 ordered Colonel ITAGAKI to meet the Major-General,
4 and, at the same time, make liaison with the Special
5 Service Section in regard to the case of NAKAMURA,
6 and also with the Consulate-General.¹ ITAGAKI
7 met the Major-General, who mentioned the conduct
8 of the young officers, and partly finished his
9 business; but as he had to make liaison concerning
10 the case of NAKAMURA, he called at the Special Service
11 Section. As it was necessary for him to prepare some
12 papers concerning the case of NAKAMURA, besides as
13 it was too early to go to bed, and also the Special
14 Service Section lay on his way home, it was natural
15 for him to stop at this Section in order to get some
16 new materials, relating to the case of NAKAMURA, to
17 TATEKAWA.

18 Liaison of SHIMAMOTO and HIRATA.

19 Acceptance of ITAGAKI. Report to the
20 Commander-in-Chief.

21 As stated in his testimony, ITAGAKI, on his
22 way to his billet after taking leave of Major-General
23 TATEKAWA, stopped at the Special Service Section,
24 but as there was no particular news, he chatted for a
25

(1) Ex. 2584, T. 22,117-8

1 while with the staffs. He was about to return to his
2 billet when there was a telephone call from the
3 garrison troops, calling the Special Service Section
4 and reporting the case of blasting the railway line
5 at Liochiaokon. By several following contacts by
6 telephone, he understood that just after 10:00 P.M.,
7 Chinese troops blasted the rail line of the South
8 Manchurian Railway at the western side of Peitaying,
9 north of Mukden, and the patrolling scouts of the
10 company of Hushihtai received shots from the enemy
11 lying in ambush. Upon receiving the information
12 the company of Hushihtai hurriedly went to the rescue,
13 collided and engaged in a battle with Chinese troops.
14 Although they had occupied a corner of Peitaying, in
15 spite of the enemy's resistance, with the enemy
16 increasing fire with machine guns and infantry guns,
17 the company was hard pressed. From the report of the
18 railway guard it was clear that the incident was not
19 a mere infringement upon rights and interests in the
20 shape of blasting the railway, but a planned challenge
21 of the Chinese Regular Army against the Japanese
22 Army; and it was judged that the Seventh Brigade
23 of Peitaying was in action against the Japanese.
24 Therefore, he keenly felt the risk was so close that
25 if the Japanese hesitated a moment the leased territories

1 attached to the South Manchurian Railway, and the
2 Japanese troops, would be encircled and attacked by
3 the Chinese Army in Mukden.

4 At that moment Lieutenant Colonel SHIMAMOTO,
5 the Second Battalion Commander of the Independent
6 Infantry Garrison, stated that he would immediately
7 go with all his troops to rescue the Hushihtai company,
8 which was in a desperate battle at a corner of
9 Peitaying, and HIRATA, the 29th Regimental Commander,
10 who had been informed of the situation, declared that
11 he, as the Commander of the Garrison, made up his
12 mind to cooperate with HASHIMOTO's battalion by
13 attacking the Mukden Wall with all the power under
14 his command. These determinations were intimated to
15 the Commander-in-Chief and others through the Special
16 Service Section of Mukden.

17 In the capacity of a Staff officer who
18 happened to be present there, ITAGAKI accepted their
19 determinations and took steps to report to the
20 Commander-in-Chief that the Independent Garrison
21 would fight it out with the enemy at Peitayang, and
22 the 29th Regiment against the enemy within Mukden.
23 The reasons why he accepted were:

24 (1) The determinations of the above
25 commanders were absolutely necessary, in line with the

1 plan of operations of the army in case of emergency,
2 not only for the self-defense of the troops in Mukden,
3 but also for the benefit of the activities of the
4 main force of the army; and

5 (2) He thought it was proper to give these
6 commanders assurance in taking action according
7 to their determinations by his acknowledgment, since
8 he as a Staff officer was fully conversant with the
9 intentions of the Commander-in-Chief previously
10 expressed.

11 When he reported the details of the above
12 steps to the Commander-in-Chief HONJO, as the headquarters
13 of the Kwantung Army moved to Mukden on 19 September,
14 he approved the steps as they completely coincided
15 with his intentions.^{1.}

16 According to the testimony of HIRATA, Yukihiro,
17 he received a telephone call from Colonel SHIMAMOTO,
18 about 10:40 P.M. on 18 September, that "as Chiang
19 Hsueh-liang's army at Peitaying had blasted the
20 railway, attacked our patrol scouts, and a section
21 of this patrol unit was fighting against them, he
22 would call out his battalion and go immediately to
23 rescue our scouts." HIRATA replied to him, through
24 the telephone, that it would be very well for him
25

(1) Ex. 3316, T. 30,261-5

1 to do so, and he himself would call out his regiment
2 and go to the barracks, where he would meet the
3 Colonel and talk over the matter in detail.

4 Immediately HIRATA called by telephone
5 the Commanding Officer on duty and ordered him to
6 make an emergency call of the regiment, put on his
7 uniform, and hurried to the barracks. When he arrived
8 there, Colonel SHIMAMOTO came running to meet him
9 and said that he would attack the enemy at Peitayang
10 with all the men under his command, which HIRATA
11 accepted and, replying that he himself would attack
12 the Mukden Wall, parted with him.^{1.} At that time
13 Chang Hsueh-liang had his army of twenty-odd thousand
14 placed in a position encircling the Mukden Wall.
15 Against this, the Japanese Army numbered less than
16 fifteen hundred and was dispersed in an area of about
17 four kilometers around the Mukden Wall. Therefore
18 he thought it would suffer a total annihilation if
19 the Chinese troops should make an attack.^{2.} The
20 moment he was informed of the occurrence by Colonel
21 SHIMAMOTO, he felt that Chang's Army was making a
22 planned challenge. So he accepted the report made
23 by Colonel SHIMAMOTO that he would come to rescue the
24

25 (1) Ex. 2404, T. 19,285
(2) Ex. 2404, T. 19,287

1 men engaged in a battle, with all the men in his
2 command.^{3.}

3 What led HIRATA to this determination when
4 he was informed of the occurrence in the barracks
5 by Colonel SHIMAMOTO was that he would surely be (1)
6 annihilated if he did not attack the Mukden Wall.

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25 (3) Ex. 2404, T. 19,288
(1) Ex. 2404, T. 19,297

1 From that evidence it is plain that SHIMAMOTO
2 made his determination to make an attack upon Peitaying
3 and go to rescue the men at the time when the Garrison
4 reported to HIRATA by telephone, and that HIRATA, upon
5 being informed of the occurrence from SHIMAMOTO,
6 accepted the latter's determination, and himself made
7 up his mind to attack the Mukden Wall, for the reason
8 that he would be annihilated if he should not do so.

9 Furthermore, HIRATA said that when he went to
10 the Special Service Section he found Colonel ITAGAKI
11 there, so he requested him to communicate his determin-
12 ation to attack the Mukden Wall to the Commander-in-
13 Chief and the 2nd Division Commander;^{2.} that he thought
14 Colonel ITAGAKI had no authority to order Colonel
15 SHIMAMOTO and himself to make such an attack as this;
16 that as a matter of fact he did not issue any order;
17 that he never showed Staff Officer ITAGAKI his plan of
18 action for approval.^{3.}

19 Although ITAGAKI accepted what Lieutenant
20 Colonel SHIMAMOTO and Colonel HIRATA had informed the
21 Special Service Section, the action was taken on the
22 responsibility of each unit, and not on his order. Then,
23 he stayed all night at the Special Service Section.
24

25 According to the testimony of the defendant
(2) T. 19307; (3) T. 19312.

1 ITAGAKI and the witness HIRATA, upon the receipt of
2 information from the Garrison and request for assistance,
3 Lieutenant Colonel SHIMAMOTO made up his mind to rescue
4 the garrison with all the men at his command and make an
5 attack upon Peitaying, and so informed Colonel HIRATA.
6 When Colonel HIRATA was informed of this he agreed, and
7 he himself was determined to attack the Mukden Wall, the
8 reason being that if he should not take this action, he
9 would be annihilated. These facts are clear. The
10 reason why Lieutenant Colonel SHIMAMOTO and Colonel
11 HIRATA had gone to the Special Service Section of Mukden
12 was because of the request they wanted to make of the
13 Section to report to the Commander-in-Chief, the former
14 of his determinations to attack Peitaying, the latter to
15 attack the Mukden Wall, and for the sake of getting their
16 respective permissions.

17 ITAGAKI had no authority to order such attacks
18 and, as a matter of fact, he did not order them.
19 ITAGAKI happened to be present there and, in the capacity
20 of a Staff Officer, recognizing their determination as
21 being absolutely necessary for the occasion and in
22 accord with the will of the Commander-in-Chief, accepted
23 them and took steps to report to the Commander-in-Chief
24 that they would fight it out with the enemy.
25

The Commander-in-Chief Was Determined to Take

Action Upon Receipt of the Report.

1 The witness ISHIHARA, Kanji, told this Tri-
2 bunal that: On 18 September 1931, the Commander-in-
3 Chief HONJO, finishing his last inspection of the
4 troops located at Liaoyan, on his informal trips of
5 inspection of the troops under his command, returned
6 with the Staff officers that night to Port Arthur. At
7 about midnight he received an urgent call from a certain
8 NAKAMURA to come to the official residence of the Chief
9 of Staff. He hurried there and found Staff Officer
10 TAKESHITA and all other Staff officers already assembled
11 through the arrangement of Staff Officer Captain
12 KATAKURA. They were then told of the first military
13 secret telegram which stated that a little after ten
14 o'clock on the night of the 18th some Chinese troops
15 blasted the railway line of the South Manchurian Railway,
16 attacking the garrison guards there, whereupon the
17 guards engaged in a fight and, upon the receipt of this
18 report, the 2nd Battalion of the Independent Garrison
19 infantry of Mukden was moving to the spot. A telephone
20 message was sent to the Commander-in-Chief at his
21 official residence by the Chief of Staff MIYAKE. They
22 all stayed there that night in order to study adequate
23 measures for the occasion.
24 measures for the occasion.
25

"On or about eighteen minutes after midnight

1 they received the second report from the Special Service
2 Section of Mukden when the Commander-in-Chief arrived.
3 The Chief of Staff and others, after a careful study,
4 reached the conclusion that by the outrageous acts of
5 the Chinese Army the situation had come to an extremity
6 which was worse than they ever expected and beyond their
7 patience to endure; that since it had come to such a
8 pass, if they did not take punitive measures and fore-
9 stall the enemy, the situation might become worse than
10 ever that night. The tense condition between the
11 Japanese and Chinese armies at that moment permitted no
12 hesitation. Taking a firm stand, the Army with its
13 whole strength should thrust a vital blow to the nucleus
14 of the enemy.' As the head officer in charge of
15 operations, he expressed his views to Commander-in-Chief
16 HONJO, who sat with eyes closed and meditated for
17 several minutes. When he opened his eyes he said,
18 'Very well, let us do it on my responsibility,' and under
19 this solemn and weighty determination of their Commander
20 they felt great responsibility. Then the Commander-
21 in-Chief issued orders calling out each of the units.
22 At three o'clock on the morning of the 19th he left
23 Port Arthur for Mukden.^{1.}
24

25 According to the Lytton Report, it is stated
(1. Ex. 2584, T. 22117-22121.)

1 that "The Committee did not reject the hypothesis that
2 officers on the spot were acting for self-defense."¹
3 That the opinions of Lieutenant Colonel

4 SHIMAMOTO and Colonel HIRATA happened to coincide with
5 that of the Commander-in-Chief was because of the situ-
6 ation in Manchuria, which was then a state of undeclared
7 war and also because of the necessary steps to be taken
8 for self-defense, born of the judgment that the action
9 of the Chinese Regular Army had been a planned challenge.

10 Some may wonder at the speed with which the
11 orders from the Army were carried out, but these orders
12 were issued in due procedure and carried out.

13 The President of this Tribunal made some inquiry
14 of ITAGAKI on this subject, and received the following
15 answers:

16 "Q Whether there was any special order given
17 to troops stationed at Chungchun, Antung, and Fushan?
18 "A Orders must have been issued from the
19 Commander-in-Chief.

20 "Q What these orders were?

21 "A As I was not in Mukden at the time, so I
22 heard later. As I was not there, I was not informed of
23 exactly. As far as I remember, as for Chungchun unit,
24 they were to concentrate at Mukden in accordance with
25 (1. Ex. 57, T. 1797-8.)

23 and
24 Kuanchentzu,
25 of his own accord.

"Q Whether it was not surprising that

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2 officers on the spot were acting for self-defense."^{1.}

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4 SHIMAMOTO and Colonel HIRATA happened to coincide with
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6 ation in Manchuria, which was then a state of undeclared
7 war and also because of the necessary steps to be taken
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19 Commander-in-Chief.

20 "Q What these orders were?

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22 heard later. As I was not there, I was not informed of
23 exactly. As far as I remember, as for Chungchun unit,
24 they were to concentrate at Mukden in accordance with
25 (1. Ex. 57, T. 1797-8.)

1 the hitherto made plan; so the plan was altered to make
2 the Chungchun unit remain there for a while. As for the
3 Fushun unit, I heard to the effect that there was no
4 direct order from the Army, but the Commander of the
5 2nd Battalion of the Independent Garrison infantry, who
6 was in Mukden, issued an order to hasten to Mukden upon
7 the occurrence of the incident. As to the Antung unit,
8 I do not know.

9 "Q Whether he acknowledged them?

10 "A When the orders were given out, I was not
11 at Port Arthur. As I was then at Mukden, I had no
12 concern with them.

13 "Q Whether he could explain how the battle
14 begun at these places on that night?

15 "A This is from the later report I am speaking.
16 At Chungchun, the Commander of the Brigade stationed
17 there was to come up to Mukden, according to the plan,
18 but he was told to remain there for the time being. He
19 might leave Chungchun at any time and march his men to-
20 ward Mukden. In that case, from the viewpoint of the
21 protection of the Japanese nationals and the railway,
22 and feeling a great danger from the Chinese Army at
23 Kuanchentzu, Nahring, near Chungchun, started an attack
24 of his own accord.
25

"Q Whether it was not very surprising that

1 fighting began at four places including Mukden on that
2 night almost at the same time. Could he explain?

3 "A The time of the opening of hostile action
4 was different at different places.

5 "Q What were the various times?

6 "A I am not certain as to the time, but the
7 hostilities commenced in Chungchun on the 19th around
8 noon. There was no action at Fushan. The Chinese
9 troops at Huanfingcheng were disarmed, but that was on
10 the 19th of September. That is to say, that took place
11 after a telegraphic order had been sent by the Kwantung
12 Army Headquarters at Port Arthur." ^{1.}

13 In summation the prosecution asserted that
14 ITAGAKI stated that communications were bad and he was
15 unable to ascertain the true nature of the situation,
16 but that he arbitrarily approved the field commander's
17 plan to attack the Chinese Army without even troubling
18 himself to find out what was really going on.

19 As to this ITAGAKI testified that he ascertained
20 the real conditions at that time as much as possible;
21 that he heard every telephone call at the Special
22 Service Section; that he tried to gather materials to
23 make a correct judgment of the matter, ^{2.} that as it was
24 quite an emergency, the reports from the front were often
25 (1. T. 30523-6. 2. T. 30356.)

1 quite fragmentary and inconsistent. Besides, communi-
2 cation stations moved from place to place; that because
3 of these conditions, it required some time to get
4 information.

5 In spite of the difficulties in securing in-
6 formation, ITAGAKI made efforts to learn the true
7 conditions of the incident and obtained materials to
8 form a correct conclusion.
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1 As stated in his affidavit in Section 5,
2 in view of the fact that there was no other way for
3 him to make further investigation of the case and
4 the matter permitted no delay, it was but natural for
5 ITAGAKI to accept the plans made by the commanders at
6 the spot.

7 ITAGAKI cannot be blamed or held responsible.

8 Negotiations with the Consul-General at Mukden.

9 Exhibit No. 2193 is the telegram reporting
10 to Foreign Minister SHIDEHARA of the negotiations made
11 by ITAGAKI with the Consul-General HAYASHI, which was
12 sent by the latter. According to the testimony of the
13 defendant ITAGAKI, the nature of these negotiations
14 was as follows:

15 On the night of 18 September the Consulate-
16 General at Mukden was informed by telephone of the
17 outbreak of the incident and of the actions taken by
18 the army. Consul MORISHIMA was asked to come up to
19 the Special Service office where the circumstances
20 were explained in detail and his cooperation requested.
21 ITAGAKI also talked about the matter with Consul-
22 General HAYASHI several times by telephone. Consul-
23 General HAYASHI said that, as Japan and China had not
24 yet formally entered into war and as the Chinese,
25 through consultant Chau, Hsin-po, had announced

1 their adoption of the principle of non-resistance,
2 he hoped that the army would arrange the matter so
3 it could be dealt with through diplomatic agents,
4 putting an end to the military actions on the part
5 of Japan at that time.

6 In reply to his assertion, ITAGAKI explained
7 to him that the incident, this time, was different
8 from the previous ones because the Regular Army of
9 the Chinese had challenged the Japanese Army; that
10 fighting between the Chinese and the Japanese was
11 already under way, and it was impossible, for the
12 present, to separate them; that anyway, unless the
13 present military actions would be settled, it was
14 practically impossible to transfer the case to
15 diplomatic negotiations; that although the Chinese
16 were saying that the Chinese were abiding by the
17 principle of non-resistance, according to the report
18 from the frontier, they were attacking at Hushihtai,
19 causing dead and injured; that he could not imagine
20 that Chao, Hsin-po would be able to arrange a cease-
21 fire agreement on his own responsibility because he
22 was a mere civil official, having no influence in
23 military affairs; that particularly what had to be
24 considered was that it could not be known whether it
25 might not turn out to be the enemy's habitual trick

1 in order that they might gain time to rearrange the
2 situation and bring about Japanese army delay and
3 unalertness.

4 ITAGAKI also told him they had to be careful;
5 that the condition was of such a grave nature that it
6 permitted no hesitation^{1.} and asked HAYASHI's con-
7 sideration.

8 That was the first ITAGAKI had heard of the
9 Chinese principle of non-resistance and, moreover,
10 the Chinese were then actually fighting against the
11 Japanese.

12 The Provoking Actions of the Chinese Army.

13 Exhibit No. 2423 (Report on the Investigation
14 into the Matters Relating to the Destruction of the
15 South Manchurian Railway) is the report made after
16 an investigation conducted at the site by OYAMA,
17 Fumio, officer of the Military Affairs of the Kwan-
18 tung Army Headquarters, with seven others by order
19 of the Commander of the Army.
20

21 In the report the conditions were described
22 in effect as follows:

23 . . . While standing beside the corpses and
24 looking over in a northeastern direction of Peiping,
25 one could perceive, beyond the cornfields at a

1. Ex. 3316, Tr. 30265-7.

1 distance of about 150 meters, some barricade south-
2 west of Peitaying. Judging from their personal
3 features, clothes and arms, it was plain that these
4 three had been men belonging to the Chinese Army,
5 and from the condition they are in it was believed
6 that several scores of hours (four or five days) had
7 elapsed since they died. Evidently the dead had
8 never been removed from the place where they had
9 fallen. The investigation confirmed that after
10 accomplishing the blasting of the railway by means
11 of explosives, these Chinese soldiers were discovered
12 by some of the men at garrison duties on the railway,
13 whereupon while firing and retreating toward Peitaying,
14 they were pursued by our garrison men, when they were
15 wounded and died, remaining in the position in which
16 they fell.^{1.}

17 The witness OYAMA, Fumio, testified to the
18 truth of exhibit 2423 and, in reply to the questions
19 put by the counsel, he explained minutely the basis
20 of making his judgment that the three dead had not
21 been brought to the spot from some other place.^{2.}

22 From this evidence it can be seen that the
23 blasting of the railway was accomplished by the
24

- 25 1. Ex. 2423, Tr. 19627.
2. Tr. 19660.

willful action of Chinese soldiers, and that the
1 Mukden Incident was not planned by the Kwantung
2 Army at all. The prosecution has not presented
3 any evidence that shows the destruction of the rail-
4 way at Lintiokon was brought about by the Japanese.
5

6 In the Lytton Report the incident is stated
7 as follows (in effect): According to the story
8 related by Japanese, it is said that Lieutenant
9 KAWAMOTO, with six privates, while on patrol duty
10 on the night of September 18, heard the noise of a
11 loud explosion. They turned and ran back and dis-
12 covered that a portion of one of the rails had been
13 blown out. . . On arrival at the site of the explo-
14 sion the patrol was fired upon from the east side of
15 the line. . . Whereupon they returned their shots;
16 the enemy ceased their firing and retreated. When
17 the Japanese forces pursued, they were again fired
18 upon by forces numbering between three to four hun-
19 dred, whereupon Lieutenant KAWAMOTO directed one of
20 his men to report to KAWASHIMA, the company commander,
21 who was also engaged in night manoeuvres and, at the
22 same time, ordered another to telephone to the
23 battalion headquarters at Mukden, asking for re-
24 inforcements. Reinforcements were then sent by
25 Captain KAWASHIMA and Lieutenant Colonel SHIMAMOTO.^{1.}

1. Ex. 57, Tr. 1787-92.

1 The commission goes on to state that it
2 "does not exclude the hypothesis that the officers
3 on the spot may have thought they were acting in
4 self-defense."¹

5 From the above evidence, together with the
6 testimony of ITAGAKI and the witness HIRATA, we sub-
7 mit that it is clear that the Mukden Incident was
8 not planned and carried out by the Japanese Army,
9 but it was an incident caused by the provocative
10 actions of the Chinese Army in Manchuria.

11 The witness HIRATA, Yukihiro, testified
12 that there had been so frequent disturbances of the
13 railway traffic that the troops had been called
14 twice to be ready for service against an emergency.²

15 HONJO, Shigeru said that since Lintikon
16 was so closely situated to Peitaying, the Chinese
17 soldiers in the barracks there often came out
18 strolling along the railroad, and on such occasions
19 they frequently attempted to derail the train by
20 placing stones on the rails.³

21 The Case of the Company at Hushan.

22 KATAKURA, Chu testified that there was a
23 company, with Captain KAWAKAMI as commander,
24

- 25 1. Ex. 57, Tr. 1797-8.
2. Ex. 2404, Tr. 19287.
3. Ex. 2043, Tr. 19260.

stationed at Fushan. About the middle of September,
1 KAWAKAMI called together some men from the South
2 Manchurian Railway and others concerned, and told
3 them that the group who had gone to the investigation
4 of the case of NAKAMURA would return on the 16th or
5 17th of that month; and, that depending on the atti-
6 tude taken by the Chinese, the situation might become
7 serious. There was, however, no provision for night
8 trains at Fushan in case of emergency, therefore,
9 preparations would be desirable. Whereupon those who
10 were present at the gathering were greatly surprised,
11 especially the South Manchurian Railway which sent a
12 director to KAWAKAMI in order to ascertain the truth
13 of the matter. As he was told, however, that no such
14 thing would happen on the 17th, he soon returned to
15 Darien. This news, though, reached Consul HAYASHI
16 at Mukden who sent it on to Tokyo.^{1.}
17

18 ISHIHARA, Kanji, testified that after
19 KAWAKAMI received a new order from HONJO concerning
20 his duties he became anxious about the defense of
21 Fushan, whenever he should leave that city pursuant
22 to said order, so he conceived a plan of his own.
23 This plan prompted him to gather together some police-
24 men and ex-service men, in order to consult with them
25 1. Tr. 18933.

as to the defense of Fushan. His idea was that there
1 might be some untoward incident in the vicinity of
2 Mukden on the 18th of September and he consulted with
3 them as to what they thought best, as to whether or
4 not he should go there. This was, however, rescinded
5 and notification of annulment sent out to the various
6 quarters. KAWAKAMI admitted that he had no ground
7 for what he did and apologized for it. On the 18th
8 KAWAKAMI was in utter confusion, made no attack upon
9 the air field, and arrived in Mukden very late without
10 even being properly armed.^{1.}
11

12 Thus it appears that the action taken by
13 Captain KAWAKAMI, company commander at Fushan, by
14 calling together policemen and ex-service men and
15 others concerned, and consulting with them as to
16 preparation of trains for moving the garrison company,
17 was due entirely to his rashness and excessive excitement
18 over the situation, and that this action of his
19 had no connection with his superior officers. The
20 matters relating to his consultation were rescinded
21 on the 17th and, as for KAWAKAMI himself, he did not
22 even fulfill his duties on the 18th of September.
23

24 Defendant ITAGAKI testified that he heard of
25 the incident of the company at Fushan for the first
1. Tr. 22140.

time after the Mukden Incident had taken place.^{1.}

1 Court exhibit 3739 is a telegram sent from
2 Foreign Minister SHIDEHARA to Consul HAYASHI. ITAGAKI
3 denied that he had any knowledge of the contents of
4 the telegram. He said: "I have neither any knowledge
5 of the Society by the name of Kokusui Kai nor any con-
6 nection with it. I have been very poor and had no
7 money. There is no reason for my having ample funds.
8 As for the Kwantung Army itself, there was no such
9 funds either."^{2.}
10

11 According to the testimony of KATAKURA, Chu
12 the secret service funds of the Kwantung Army were
13 only fifty thousand yen per month, which were appro-
14 priated for expenses for collecting information,
15 guards and for entertainment,"^{3.} and of course these
16 funds could not be used by ITAGAKI of his own accord.
17

18 ITAGAKI was at that time at Port Arthur, a
19 little corner of the Kwantung territory, and as the
20 place was remote and had very little to do with the
21 Chinese, there was no occasion for him to be engaged
22 in either political or social activities. To quote
23 from the testimony of ISHIHARA, Kanji: "In those days
24 Colonel ITAGAKI, as a high ranking staff officer,

- 25 1. Tr. 30349.
2. Tr. 3044.
3. Tr. 18945.

perfectly managed the staff office of headquarters."¹.

1 Furthermore, this exhibit is nothing but a
2 rumor of affairs in Mukden which was heard by the
3 Foreign Minister in Tokyo. If such had been the
4 case a report should have been made by the Consul at
5 Mukden to the Foreign Minister; and upon inquiring
6 into the matter, a reply must have been made if there
7 was any truth in it. There was, however, no reply.
8 The exhibit therefore must be regarded as a mere
9 rumor.
10

11 Court exhibit 181-(1). This exhibit is a
12 telegram sent from Consul HAYASHI to Foreign Minister
13 SHIDEHARA, stating that: "According to private in-
14 formation received from KIMURA, Director of the
15 Manchurian Railway, a number of trackmen have been
16 sent out from the Manchurian Railway for the repair
17 of the railroad which was said to have been destroyed
18 by the Chinese, but the Army seems to have not allowed
19 them to come near the spot. Presumably the incident
20 was due to the preconceived plan of the Army."
21

22 That the Army did not allow the trackmen
23 sent out from the Manchurian railway to come near the
24 spot might have been due to the necessity for making
25 an investigation of the matter at that point by the
1. Tr. 22116.

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1. Tr. 22116.

1 Army. Therefore, this cannot be said to have been
2 due to the preconceived plan of the Army. The tele-
3 gram itself recognizes that this was merely a pre-
4 sumption. Furthermore, the information of KIMURA,
5 Director of the Manchurian railway, was not based upon
6 facts which he had obtained by going himself to the
7 spot, but which he obtained from others. Therefore,
8 it must be said that the exhibit has no evidentiary
9 value.

10 After the Mukden Incident.

11 The prosecution asserted in its summation
12 that, immediately after the capture of Mukden,
13 DOHIHARA was appointed as mayor and ITAGAKI was one
14 of those who made the municipal administration by the
15 Japanese Army possible, and he is one of those re-
16 sponsible for recommending DOHIHARA for this position.

17 The facts about this appointment of DOHIHARA,
18 as testified to by defendant ITAGAKI, were as follows:
19 Mukden became a city without order and it could not be
20 left that way, even for a moment, in the interests of
21 public safety. In view of the above circumstances,
22 and also to cope with the earnest desire of the citi-
23 zens, the army commander, HONJO, for the purpose of
24 maintaining public safety, promulgated immediately an
25 emergency municipal administration and appointed

Colonel DOHIHARA as the temporary mayor. The Kwantung
1 Army had no intention of instituting a military adminis-
2 tration. They did not admit any other soldier than
3 Colonel DOHIHARA to take part in the administration,
4 and the greater part of the functionaries were
5 Chinese nationals. Thus its purpose was to maintain
6 the public peace as a temporary measure with the
7 arrangement that whenever a qualified Chinese was
8 available the power of administration should immedi-
9 ately be transferred to him. Colonel DOHIHARA served
10 only one month as temporary mayor and on the 20th of
11 October Mr. Chao, Hsin-po, became mayor."¹.

13 Moreover, ITAGAKI told this Tribunal that:
14 "It was not I who recommended DOHIHARA to the mayor
15 of Mukden. He was appointed by General HONJO. I heard
16 the conversation between the Chief of Staff and Consul
17 MORISHIMA in which, upon being asked whether there
18 would be a military administration by the Consul, the
19 Chief of Staff said that there should be no military
20 administration. I also remember I heard from the
21 Chief of Staff that Consul General HAYASHI visited
22 General HONJO and talked about the municipal govern-
23 ment. General HONJO said there would be no military
24 administration, and with that understanding the Consul
25 General left there for home.

1. Ex. 3316, Tr. 30267.

The witness KATAKURA, Chu, said it was not
1 for the purpose of a military administration that Col-
2 onel DOIHARA was appointed Mayor; that at that time
3 there were many and various Chinese public establish-
4 ments and facilities in Mukden, as well as various
5 Chinese organizations, but most of the Chinese leaders
6 had abandoned that locality. Colonel DOIHARA was
7 appointed as the temporary Mayor with the condition
8 that this was a temporary measure to maintain the peace,
9 and also that whenever a qualified Chinese was found
10 he would soon resign for him. There was no other soldier
11 than Colonel DOIHARA who took part in the administra-
12 tion of the city government of Mukden.
13

The Lytton Report said that what was urgently
14 needed was the organization of the city government and
15 the normal life of the citizens, but this was already
16 begun by the Japanese and was going on speedily and
17 efficiently. DOIHARA was appointed Mayor, and within
18 three days after his appointment the usual administra-
19 tion of the city was revived. The activities of public
20 services were revived. The Colonel was in his office
21 for one month, and on the 20th of October the power of
22 administration was transferred to a qualified Chinese body
23

24 2. Tr. 18,926
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1

with Mr. Chao Hsin-po as Mayor.

1 All the functionaries who were holding im-
2 portant posts of the government had fled; the police,
3 communications, and the banking services all came to
4 a standstill, and the city became utterly chaotic.
5 Generally speaking, under such circumstances to appoint
6 a soldier as Mayor for the purpose of restoring peace
7 and order of the city as a temporary measure would be
8 natural and cannot be regarded as a military government.
9 Of course, the commander of an army on such occasion
10 can appoint from his free will one of the men under his
11 command as the temporary Mayor. To make such an appoint-
12 ment he needs no recommendations from his inferiors --
13 the point needs no further argument. If so, ITAGAKI
14 was not the one who brought about the city administra-
15 tion by the army, nor was he responsible for recommend-
16 ing DOIHARA for Mayor. The argument put up by the
17 prosecution is not sustained by the facts.

19 The prosecution cited exhibit No. 3407 as
20 the proof that during one month of the military adminis-
21 tration after its establishment, the temporary city
22 government of Mukden planned to obtain its funds through
23 securing a monopoly of the sale of opium by secret
24 1. Ex. 57, tr. 502, Lytton Report, chap. VI, p. 88.
25

means and also through issuing lottery tickets; but the
1 sources of this information, as given in the exhibit,
2 are unknown and its accuracy cannot be determined.
3 Furthermore, the extraordinary city government of Muk-
4 den was a temporary arrangement to be transferred to
5 the Chinese, and as a matter of fact, Mayor DOIHARA
6 resigned his mayorship on the 20th of October, i. e.,
7 after being in office for one week (from the date of
8 the court exhibit). Such being the case, there was
9 no reason for the city government, with DOIHARA as
10 Mayor, to plan a monopoly for the sale of opium and
11 issuance of lottery tickets in order to secure the ex-
12 penses of the city government; nor should there be any
13 reason for the headquarters of the Kwantung Army to
14 approve such plan. As a matter of fact, since there
15 was no such plan as mentioned in the exhibit carried
16 into effect, the exhibit does not prove what the
17 prosecution alleges.
18

19 Furthermore, defendant ITAGAKI denied know-
20 ledge of such plans.
21

22 The views of Commander in Chief HONJO ruled
23 the behavior of the staff officers. According to the
24 testimony of the defendant ITAGAKI, Commander in Chief
25 1. Tr. 30,362

PONJO made public at the end of October, 1931, at the
1 Kwantung Army headquarters, an important statement,
2 the gist of which is stated in exhibit No. 3316 and in
3 ITAGAKI's deposition, section 8 a,b,c,d,e,f, and g.
4 When he made this statement there was a general tendency
5 throughout Manchuria for the establishment of a new
6 state. The object was, to quote from ITAGAKI, "to make
7 certain that an unfortunate incident of this nature
8 should never happen again. In order to do so, we must
9 devise measures with which to settle the incident to
10 the complete satisfaction of both countries. The first
11 step toward materialization of this measure would be
12 to pay high regard to the expressed desires of the
13 whole Manchurian people. In order to eliminate the
14 bitter feeling of enmity which the anti-Japanese
15 movement had created, something had to be done to en-
16 hance the spirit of racial harmony to such extent that
17 the people of both countries feel no racial discrimina-
18 tion among them... So long as Japan maintains her
19 special rights and interests in Manchuria, it cannot
20 help causing a sense of inequality and a sense of being
21 oppressed among the Manchurians... Therefore Japan
22 should voluntarily give up her rights and interest
23 there if by so doing the interests of both countries
24 become identical and the sense of racial discrimination
25

be eliminated... The Kwantung Army should be indifferent
1 to all political affairs of Manchuria. It should leave
2 all the administrative matters of the new state to the
3 independent and autonomous regime of the Manchurian
4 people, to assist the maintenance of law and order.
5 However, the national defense should be a problem for
6 the joint strength of Japan and the new state, and for
7 the time being, the Kwantung Army should appoint it-
8 self to this task... What we should do at this junc-
9 ture is, while devoting our undivided attention to
10 our primary duty as an army, we had to make close
11 observation upon the future relation between Manchuria
12 and Japan in order to be able to report the true aspect
13 of the situation to the central government, and at the
14 same time should be determined not to interfere with
15 their political movement which is intended to represent
16 the unanimous desire of thirty million Manchurian
17 people of immediately serving the present situation of
18 turmoil. While we should not be reluctant in giving
19 assistance within our power to the Manchurian people,
20 whenever asked for it, we must not force ourselves
21 upon them."¹

22
23 Defendant ITAGAKI and all the rest of the

24 ¹. Ex. 3316, tr. 30,268-72
25

1 staff officers acted upon this instruction given by
2 their Commander in Chief. Defendant ITAGAKI and the
3 rest of the staff officers were ruled by this view
4 as the standard for their conduct.

5 According to this view of the Commander in
6 Chief, they sounded out the opinions of the political
7 leaders and important men, among the Chinese, and then
8 reported to the authorities concerned.

9 ITAGAKI took every opportunity to talk with
10 the Chinese leading authorities and powerful civilians
11 to ascertain their views, so that he could report them
12 to the Military Commander. He learned that among those
13 personages there prevailed, as a common sentiment, a
14 strong feeling of animosity against Chang Hsueh-ling, a
15 dislike of the Koumintang politics, and consequently
16 the observance of the principle of the "border security
17 and the peace for the people." He learned from Lo Chen-
18 yu that the faction for the Restoration wished to call
19 the Emperor Hsuan Tung to Manchuria, and later he
20 learned that Yu Chung-han had suggested to Commander
21 HONJO the necessity of establishing a new state. Within
22 a short time after the incident, in many provinces and
23 districts independence was declared, so ITAGAKI
24 successively interviewed, by order of the Army Commander,
25 during the period from the latter part of November to

the middle of December, the political leaders of the
1 various districts who were the supporters of independ-
2 ence, such as Chang Ching-kui at Harbin, Ma Chen-shan
3 at Hailun, Hsi Chia and Hseh Chie-shin at Kirin, and
4 Tsang Shih-i and Yuan Chin-kai at Mukden. They were,
5 without exception, strongly opposed to the return of
6 the Chang Hsueh-liang regime to Manchuria, and also
7 they did not want the Nanking Government in Manchuria,
8 as they hated the politics of the Kuomintang. Their
9 common and earnest desire was to take active steps to
10 establish an independent state. After having heard
11 from other leaders wishing an independent state, ITAGAKI
12 made a detailed report of their opinions to Commander
13 ¹
14 HONJO.

15 It was due to the view of Commander HONJO
16 that the defendant thus sounded out the various opinions
17 of the Chinese political leaders and powerful men. As
18 to why ITAGAKI gathered their opinions, the defendant
19 stated: "Some of these men were governors of provinces,
20 some others were commanders of armies, all of them be-
21 ing men of real power among the people, or having
22 responsibility for the people. It was necessary for
23 the Kwantung Army to ascertain their opinions in order
24

25 1. Ex. 3316, tr. 30,272-8

1 to maintain the peace and order of the people. They
2 were all landowners." ¹

3 These men were the landlords who formed the
4 background of the people; consequently their opinions
5 might be taken for the will of the people.

6 The allegation by the prosecution in its
7 summation that the defendant ITAGAKI gathered opinions
8 from those Chinese political leaders and powerful men,
9 and reported thereof to the Military Commander for the
10 purpose of manipulating puppet politicians, is unfound-
11 ed and has no factual basis.

12 The prosecution, citing exhibit No. 2406-A
13 and No. 2407-A, alleges that the Kwantung Army gave
14 to Chang Hai-peng 3,000 rifles and guns and 200,000
15 yuan in order to control Northern Manchuria, but the
16 witness TAKEDA, Ju said: "So far as I know, I am firm-
17 ly convinced that there was no such thing as giving to
18 Chang Hai-peng 5,000 rifle guns and a fund of 200,000
19 dollars by the Kwantung Army with the object to aid the
20 movement for independence. Consul-General HAYASHI's
21 telegram was an over-excited and exaggerated report, I
22 believe." ¹

23 The witness KATAKURA, Chu said that: "Early
24 in October, 1931, General Chang Hai-peng established
25 1. Tr. 30372-3. 1. Tr. 19363.

1 an independent state at Taonan, but the Kwantung never
2 gave money in connection with the movement for inde-
3 pendence or autonomy made by Manchurian generals and
4 others. At that time the special funds per year for
5 the whole of the Kwantung Army was no more than
6 50,000 yen, and the army was at a loss because it
7 had no money for such movements."¹.

8 The defendant ITAGAKI, in his cross-
9 examination, said: "The Kwantung Army gave no aid
10 to Chang Hai-peng by way of appropriating funds or
11 guns."².

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24 1. Tr. 18953-4.

25 2. Tr. 30369.

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1 There is no reason for the Kwantung Army to
2 give away the arms in use. These arms, reserved or
3 stored, were only to replace those needing repairs,
4 and there could not be such a great number of rifles
5 as 2,000. As for the funds, the secret service funds
6 for the Kwantung Army were very small in amount, said
7 KATAKURA, and there could not be so great an amount
8 as 200,000 yen or 200,000 Chinese dollars. At that
9 time, as the government of Kirin Province had con-
10 siderable funds, it might be thought to have given
11 some aid. Since peace time Taonan had been of no
12 great importance and consequently there had been no
13 special organ of the Army. If the Kwantung Army were
14 to give such an enormous amount of military funds and
15 arms, they would, as a rule, have surely established
16 some special military organ there. As a matter of
17 special mention, there has never been a staff officer
18 named OTA, as mentioned in the telegram. This is an
19 instance of the valuelessness of this information.
20 Thus the above two telegrams are mere accumulations
21 of rumors and have no value whatsoever.

22 The prosecution alleges that Ma Chan-shan,
23 who had some forces, was recognized by ITAGAKI as a
24 worthy man. To deal with him by way of politics in-
25 stead of force of arms, ITAGAKI went to him to urge

1 him to cooperate with Japan. Moreover the prosecu-
2 tion alleges the Japanese Army, by giving arms to
3 the Mongolians in Northern Manchuria, aided their
4 movements for independence.

5 As to the relation between Ma Chan-shan and
6 ITAGAKI, however, KATAKURA, Cho has testified that
7 "at the end of October, 1931, as a result of colli-
8 sion with the Japanese Army, Ma Chan-shan retreated
9 to Hailun, north of Harbin. At that time Colonel
10 ITAGAKI went to Hailun alone and talked with him,
11 making him understand the real intentions of Japan."¹
12 ITAGAKI's interview with Ma Chan-shan was to bring
13 about the conclusion of a truce at the fall of
14 Tsitsihar. No evidence has been produced for the
15 allegation that ITAGAKI dealt with Ma Chan-shan by
16 means of politics instead of arms, or that the Japan-
17 ese Army aided the movement for independence of the
18 Mongolians in North China by supplying them with
19 arms.

20 The prosecution alleged by exhibit No. 305
21 that during the period of preparation for the estab-
22 lishment of puppet government for the whole of Man-
23 churia, the Japanese adventurers, on the pretext of
24 self-defense, started movements in various places
25 in Manchuria, and that clearly those movements were

1 due to the plans or policies devised by ITAGAKI.
2 There is no evidence that the said nationals' self-
3 protecting army started movements at various places
4 in order to establish a puppet government for the
5 whole of Manchuria. The prosecution, by exhibit
6 No. 219, claimed that ITAGAKI had been manipulating
7 the politicians in Manchuria. The exhibit was a
8 telegram sent by the Consul-General at Mukden to
9 Foreign Minister INUKAI, which said:

10 "According to the reliable sources, the
11 army is going to call here the Governor from each
12 province also, with the object of settling the situa-
13 tion, and regarding this matter, it is said that
14 Staff Officer ITAGAKI asked an interview with Tsang
15 today, the 14th."¹

16 There is no evidence, however, that the
17 governors of provinces were summoned to Mukden for
18 the purpose of settling the situation at that time.
19 Especially, as General Tsang had no post then, there
20 is no reason for making contact with him in order to
21 request him to attend the governors meeting. There-
22 fore, this telegram is incredible. Assuming the
23 contrary to be the case, it is unreasonable to con-
24 clude from this telegram alone that ITAGAKI was
25 1. Ex. No. 2195, Tr. 15,739

1 manipulating all other politicians in Manchuria.

2 Defendant ITAGAKI testified as follows:

3 "Having been called by telegram from the
4 Central authority and comprehending the designs of
5 the army commander HONJO, I left mukden for Tokyo on
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1 the 4th day of January 1932. Presenting myself at
2 the Military Headquarters and War Ministry, I made
3 reports:

4 "(1) That the general tendency of Manchuria
5 was toward an independent State. After having assid-
6 uously sounded the prominent authoritative persons and
7 men of real worth in the outside of official circle,
8 I could affirm that they were all earnestly advocat-
9 ing the creation of an independent state, and that
10 the general public, too, were against not only the
11 return of Chang Hsueh-liang's regime to Manchuria, but
12 also against the advance of Kuomintang Government in
13 Manchuria.

14 "(2) That the Kwantung Army was entirely
15 absorbed in the maintenance of the public peace, and
16 that it placed no limit on the political desires of
17 the native people;

18 "(3) That if the matter should go as it
19 was, an independent State would undoubtedly be formed,
20 so that the Japanese Government should be well pre-
21 pared to meet the situation;

22 "(4) That the Commander HONJO was of the
23 opinion that there remained no other way than to
24 adopt the theory of an independent State, in view of
25 the general trend of the situation at that time.

1 "Then the War Minister ARAKI told me that
2 though the Government policy was not decided yet,
3 as the new cabinet had just been constructed, his
4 principle was to observe the actual situation on
5 the spot, but as to the issue of independence of
6 the State, he did not interfere one way or the other.
7 During my stay in Tokyo I explained in detail the
8 new conditions in Manchuria and the Central authori-
9 ties well understood regarding the actual situation.
10 Coming back to Mukden, I submitted my report to the
11 Commander HONJO, concerning the above liaison affair
12 with the Central authorities."¹

13 The prosecution alleges: That it was neces-
14 sary to have an Emperor for a puppet government, and
15 Pu-Yi seemed to be the most appropriate person for
16 this position, that for this mission DOHIHARA was
17 dispatched to Peiping in 1931 by Commander HONJO and
18 that the interview between DOHIHARA and Pu-Yi had
19 been arranged by ITAGAKI.

20 But first in regard to the above matter,
21 ITAGAKI in cross-examination replied as follows:

22 That in October, 1931, Colonel DOHIHARA was
23 sent to Tientsin by the Commander HONJO and not by
24 him. Upon his departure he looked after his expense
25

1 money and the like, but did not make detailed arrange-
2 ment for his meeting with Pu-Yi and so forth. As
3 there had been information that an earnest desire had
4 been expressed by Pu-Yi to come to Manchuria from
5 Tientsin, the Commander HONJO ordered DOHIHARA among
6 other duties to ascertain whether this was true.¹ The
7 main purposes of Commander HONJO dispatching Colonel
8 DOHIHARA TO Tientsin were, therefore, as testified
9 by the witness KATAKURA,² to get information about the
10 attitude of the Government at Chin-chou; and utilizing
11 this occasion, he also assigned the duty to DOHIHARA
12 to ascertain Pu-Yi's intention about his coming over
13 to Manchuria as there was information to that effect
14 from Tientsin at that time. ITAGAKI only supplied
15 DOHIHARA with his travelling expenses, and, as to
16 the detailed arrangement for this interview, he had
17 no concern with it. Furthermore, it is clear that
18 on 13 November when Pu-Yi landed on Taying, the
19 officers of the Kwantung Army were surprised.³

20
21 Exhibit No. 303 is a pure fabrication, no
22 more than a rumor, since ITAGAKI has never made such
23 an arrangement, and also it is a fact that the ex-
24 Empress came over there after the ex-Emperor Hsuan

- 25 1. Tr. 30,373, 30,377, 30,379-80
2. Tr. 18,970
3. Tr. 18,972

1 Tung had moved to Manchuria. KAWASHIMA, mentioned in
2 the telegram, was related to Pu-Yi; therefore, if
3 there were such, it must have been the activities
4 started of her own accord.

5 Interview of Pu-Yi with ITAGAKI:

6 In regard to the interview of Pu-Yi with
7 ITAGAKI, ITAGAKI testified that: By order of Com-
8 mander HONJO, he had an interview with Mr. Pu-Yi in
9 Port Arthur on January 29, 1932 (7th year of Showa).
10 An enthusiastic desire for the creation of an inde-
11 pendent state had become extremely strong among
12 the powerful as well as the general public of
13 Manchuria at that time and the tendency of forming
14 such a new state, apart from the Restoration move-
15 ment, reached its high pitch with the probability of
16 having Mr. Pu-Yi, the ex-Emperor of Hsuan Tung, who
17 has a close connection with Manchuria, as the sover-
18 eign of the new State.

19 So Commander HONJO ordered ITAGAKI to meet
20 officially with Mr. Pu-Yi and ascertain his intention
21 regarding this matter. He first gave Mr. Pu-Yi
22 general information concerning the establishing of
23 a new State, and then asked his opinion about it.
24 Mr. Pu-Yi was already aware of the trend in Manchuria
25 for the establishment of a new State through the

information he had obtained from various sources.

1 Ho declared that it was of great necessity to estab-
2 lish a new independent State in Manchuria, seceding
3 from China, and to have a good administration for
4 the sake of the 30,000,000 inhabitants there, in
5 close cooperation with Japan. He also stated that he
6 had the intention to accept the sovereignty of the
7 new State. He also insisted upon the Restoration
8 and the conversation lasted for several hours. The
9 main reasons were as follows:
10

11 (1) The courteous treatment and conditions
12 offered to the Ching Family did not abolish the title
13 of "Emperor." So he was still an Emperor. Conse-
14 quently, he could not accept any post which did not
15 carry this title;

16 (2) The cultural level of the people of
17 Manchuria being low, the Imperial Rule was necessary;

18 (3) As to the system of the Imperial Rule,
19 a general cabinet had to be established, in subor-
20 dination to a political organ under the direct
21 control of the Emperor who shall decide himself
22 all the state affairs.
23

24 ITAGAKI wondered whether the real intention
25 of Mr. Pu-Yi was to decline to accept the sovereignty
of a new State if the State was not formed according

1 to the principle of the Monarchal Restoration, or
2 whether he would accept the offer to be the head
3 of the new State anyway. However, as the interview
4 had lasted pretty long already, ITAGAKI took his
5 leave, and in another room he met Cheng Chui, the
6 son of Cheng Hsiao-hsi, whom he asked if Mr. Pu-Yi
7 had an idea to refuse to become the head of a new
8 state. Cheng was very much astonished at that and
9 said that could not be so; on the contrary he thor-
10 oughly understood the present day political situa-
11 tion, and was ready to accept the offer to become
12 the head of a new state. He further explained to
13 ITAGAKI that, though he did not know the true meaning
14 of Mr. Pu-Yi's talk to him, he thought that it must
15 have been, perhaps, a simple expression of his de-
16 sire before accepting the office. Then ITAGAKI
17 asked him if he could construe the attitude of Mr.
18 Pu-Yi, as meaning he would agree to become the head
19 of the new state, and he could make report to Com-
20 mander HONJO to that effect. He said "Yes." Then
21 ITAGAKI left Port Arthur for Mukden, and submitted
22 his report to the Commander HONJO.
23

24 The object of his interview with Mr. Pu-Yi
25 was not to persuade him to become the head of the
new state, but merely to learn his intention.

1 ITAGAKI had absolutely no notion whatever or acted
2 in such a way as to coerce or intimidate Pu-Yi, or
3 to cause his advisor Cheng Chui to make Mr. Pu-Yi
4 agree to become head of the new state

5 Later on, on the 21st of February, Lo
6 Chen-yu and his son came to see ITAGAKI at the Head-
7 quarters of the Kwantung Army, saying that they were
8 sent by the Emperor Pu-Yi. They said that the Em-
9 peror was still contending for the Imperial Rule of
10 the new state. However, at that time North-East
11 Administration Committee had already issued, on the
12 18th of February, the declaration of independence,
13 and decided on the 19th that they should establish
14 a republican state and that Mr. Pu-Yi, the ex-
15 Emperor Hsuan Tung, be requested to accept the admin-
16 istrationship. The Kwantung Army, therefore, con-
17 sidered that this move of Lo Chen-yu was due to the
18 lack of adequate knowledge on the part of Mr. Pu-Yi
19 of the atmosphere of the North-Eastern Administra-
20 tion Committee. So they saw the necessity of directly
21 communicating to Mr. Pu-Yi the actual situation of
22 the North-East Administration Committee, and by order
23 of Commander HONJO, ITAGAKI took the night train for
24 Port Arthur. On the next day, the 22nd, he met Mr.
25 Pu-Yi and conveyed to him that information. Mr.

1 Pu-Yi understood the circumstance, was already
2 acquainted with the decision taken by the North-
3 East Administration Committee, and expressed his
4 approval. He also gladly accepted the decision of
5 the North-East Administration Committee in regard
6 to the title of the state, the national flag, and
7 the site of Metropolis and the name of era. In
8 the midst of their talk ITAGAKI had a telephone call
9 from the Commander HONJO and reported the progress
10 of their interview to him.¹

11 THE PRESIDENT: We will recess for fifteen
12 minutes.

13 (Whereupon, at 1445, a recess was
14 taken until 1500, after which the proceed-
15 ings were resumed as follows:)

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24 1. Ex. No. 3316, Tr. 30,280
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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Mattice.

MR. MATTICE: Much evidence has been produced to prove that Manchukuo was, after all, a puppet government under the control of Japan. The most important of all was the testimony made by witness Pu-Yi. From the cross-examination and all that related to this witness, however, his testimony can be regarded as untrustworthy. He was not only so often inconsistent in his testimony but also more often than not evaded his answers to the questions put to him by saying, "I do not remember", or "I said such and such under coercion", etc. In short, even if we accept what he said, the impression we received was that his statement was not based on the facts. The testimony of this witness in regard to the creation of Manchukuo and his return to Manchuria as the Emperor was contradictory to that of Semiyonov. This witness stated in his deposition (exhibit No. 668) that he was asked by Pu-Yi to make a request of the Japanese to restore him to the Emperor, in compliance with which he negotiated with the Japanese on behalf of the ex-Emperor Pu-Yi. (Refer to deposition, section 6,7) Again, Pu-Yi denied his authorship of the alleged epistle to

1 General MINAMI (exhibit No. 278), but by the hand
2 writing expert TAKAMURA, Iwao, the epistle was proved
3 to be Pu-Yi's own hand writing. It was judged that
4 the epistle (exhibit No. 278) was written by the same
5 hand that had written the poem on the fan (exhibit No.
6 282), the signature in the Manchukuo document (exhibits
7 No. 283, 284, 285), and the Chinese letters or char-
8 acters written by Pu-Yi in the presence of this expert
9 judge TAKAMURA and others at the Consulate of the
10 Soviet Union on 29 August 1946 -- all these had been
11 recognized and admitted to be Pu-Yi's¹. Even in this
12 respect Pu-Yi is incredible as a witness, and conse-
13 quently, it can be said that his testimony was alto-
14 gether unreliable.

15 In his deposition H. G. Woodhead denied the
16 truth of the rumor that Pu-Yi had been restored to the
17 position of the Emperor against his will or that the
18 Emperor Pu-Yi had not been able to act on his free
19 will, as such, he stated, was contrary to the fact.
20 Furthermore, Woodhead explained in detail as to Pu-Yi's
21 motives of becoming the Chief Executive of Manchukuo,
22 which were two, one being political and the other per-
23 sonal. Pu-Yi's escape from Tientsin was not due to
24 any abduction. Whether he was living in the concession
25 1. Ex. No. 2440, 2440-A, T. 20,188

1 or in Manchuria, he was not restricted. Never did he
2 receive any oppression, Woodhead testified. Pu-Yi
3 left then for Changchun, with the firm conviction that
4 it was his duty to assume the position of the Chief
5 Executive of Manchukuo, where he would adopt the prin-
6 ciples of royalty, based on the teaching of Confucius
7 for the administration of Manchukuo, so he told Wood-
8 head.¹

9 From this testimony it is indisputably clear
10 that Pu-Yi's assumption of the Chief Executive of
11 Manchukuo was because of his earnest desire and not
12 due to any coercion or inducement on the part of Japan,
13 and also that he was never restricted on his freedom of
14 action. Pu-Yi's testimony is plainly contradictory to
15 the facts, and so cannot be given any credence.

16 The Autonomy Directing Department and ITAGAKI

17 The prosecution alleged that the Autonomy
18 Directing Department was an organ belonging to the
19 Kwantung Army, and that ITAGAKI played a leading role
20 in this connection. ITAGAKI had no connection with
21 this department whatsoever, as testified by witness
22 ISHIHARA as follows:

23 "The Autonomy Directing Department was an
24 organ established for the purpose of directing
25

1 self-government in the provinces by Chang Hai-
2 peng, who hold the principle of independence.
3 The department was not under the perfect control
4 of the Kwantung Army. In regard to the actions
5 of the department, there was no such thing as
6 obtaining permission from the Kwantung Army
7 before the activities started by the department.
8 So far as the peace and order was concerned, the
9 department reported to the Kwantung Army. The
10 Kwantung Army, as a rule, was cautious not to
11 make any interference with the department.
12 ITAGAKI had almost no connection with this de-
13 partment, and neither was he an advisor thereof,
14 as far as I know."¹

15 Witness KATAKURA Chu testified that the rela-
16 tion of Kwantung Army with the Autonomy Directing De-
17 partment was in such a degree as the fourth section of
18 Press information under the third bureau of the Public
19 Peace had the liaison business; no soldier of the
20 Kwantung Army had participated in this department; and
21 never did the Kwantung Army give any funds to them.²

23 Nor did the witness KASAGI, Yoshiaki, say
24 that ITAGAKI was advisor to this Autonomy Directing
25 Department.³

1. T. 22,246-9
2. T. 18,977-8
3. T. 2,789

1 From this evidence it is clear that the
2 Autonomy Directing Department was organized and super-
3 vised by Chang Hai-peng, a popular figure, he himself
4 being its head, and the regular salaries of its staffs
5 and other expenses for activities being not met by
6 the Kwantung Army. It is also clear that no soldier
7 of the Kwantung Army was in the department, as it was
8 not an organ of the Kwantung Army. Furthermore, since
9 the Kwantung Army did not interfere with the political
10 policies and activities of its department, and ITAGAKI
11 was not an advisor to it, the latter's part in its
12 activities cannot be as the prosecution alleges.

13 The Concordia Association and ITAGAKI.

14 The prosecution claims that ITAGAKI was one of
15 the organizers of the Concordia Association of Man-
16 churia, but witness YAMAGUCHI, Juji, testified that
17 "ITAGAKI, the former Staff Officer, was not a member
18 of the organizing committee of the Concordia Associa-
19 tion."¹ Also the witness OZAWA, Kaisaku, said in his
20 testimony that "Colonel ITAGAKI, of the Kwantung Army,
21 was not a member of the arrangement committee of the
22 Concordia Association. Never did he participate in
23 its organization."² If that was the case, the exhibit,

- 24
25 1. T. 18,851-2
2. T. 30,076-7

1 which constitutes the basis of the prosecution's alle-
2 gation, is clearly in error.

3 The prosecution maintained that the defendants
4 LOHIHARA and ITAGAKI had controlled the puppet politic-
5 ians, and cited exhibits Nos. 3479-E, F, G. H, I. But
6 these have no direct bearing upon ITAGAKI, as the de-
7 fendant in his cross-examination said that he had no
8 knowledge whatever of the contents of the exhibit.

9 IV. Later Period of ITAGAKI's Service in
10 the Kwantung Army.

11 Judgment of the True Conditions by the
12 Kwantung Army of this Period.

13 According to the testimony of defendant
14 ITAGAKI, the situation about 1934 or 1937 was as fol-
15 lows:

16 After the truce at Tangku, continuous efforts
17 were made by the Chinese and Japanese well-informed
18 circles to alleviate the tension between the two na-
19 tions and to eradicate the causes of future evils.
20 Consequently, traffic was opened and mail system estab-
21 lished between the two nations after September 1934.
22 Foreign Minister HIROTA made a speech on the two nations
23 rapprochement before the Diet in January, to which
24 replies were made by Chiang Kai-shek and Wang
25

1 Chiao-ming and finally, in June, an Amity Law was
2 promulgated.

3 In view of the Chinese Communist Army's north-
4 ward expansion with the aims of intensifying the
5 strain between Japan and China, the Chinese Government
6 issued an order to exterminate that army (February
7 1935), assigning Yu Hsun-chung as the head of the
8 expeditionary army (June 1935). The Chinese Communist
9 Army, nevertheless, broke through the Chinese Nation-
10 alist Army and was drawing near the Mongolian Region.

11 The U.S.S.R. persisted in accusing Japan of
12 being imperialistic and aggressive. It was double
13 tracking the Siberian Railway and proceeding with
14 fortification of the Far East for military bases. The
15 strength of the U.S.S.R. was four times as large as
16 that of the Kwantung Army and was being still further
17 increased.

18 THE PRESIDENT: I am told that there is no
19 evidence of that. I can't recollect whether there is
20 or not. We are going to disregard every statement of
21 fact not supported by evidence. That applies to all
22 summations.

23 MR. MATTICE: At the moment I am not prepared
24 specifically but I think it will be found in the
25 accused ITAGAKI's affidavit.

1 Armed communists and bandits in Manchuria
2 were much curbed by the Japanese and Manchurian expe-
3 ditionary forces, though not entirely suppressed.

4 Some Japanese and Manchurian notables were
5 beginning to advocate that Japan should abolish her
6 extraterritoriality in Manchuria.

7 Judging from the situation stated above, if
8 the principle of co-prosperity advocated by Japan and
9 Manchukuo should succeed in forcing out the designs of
10 the communist power, Japan, Manchuria and China would be
11 able to pursue the way of prosperity in peace. Whereas,
12 the three nations would be thrown into the quagmire
13 of war and revolt if Japan's advocacy should fail and
14 the situation should develop in favor of the commun-
15 ists. The above prospect became all the more probable
16 after the comintern held a general meeting at Moscow
17 in July 1935, passed a resolution to concentrate on
18 efforts to overthrowing Japan and accomplishing world
19 revolution, and the Chinese Communist Party issued a
20 proclamation on the basis of the said resolution, to
21 substitute the principle of "resist Japan and save the
22 nation movement", and also by their threat to resort
23 to the tactics of the anti-Japanese united front and
24 announcing its resolution to put these programs into
25 action.

1 The consensus of opinion of the Kwantung
2 Army's Headquarters under the commander and the chief
3 of the General Staff was that the basic policies to be
4 adopted by Japan and Manchukuo should be as follows:

5 (a) Strengthening ourselves by:

6 i. Construction of co-prosperity society.

7 ii. Financial construction centering around
8 improving the national wealth and enrich-
9 ing the national resources.

10 iii. Securing the national defensive power
11 enough to insure peace and order, and
12 in an emergency, strong enough to check
13 any enemy invasion.

14 iv. Establishing international friendship
15 by diplomatic means.

16 (b) Tiding over the impending crisis through
17 the above measures.

18 (c) The realization of harmonious coopera-
19 tion of the races in Manchuria.
20

21 According to the testimony of ITAGAKI, while
22 he was Chief of the General Staff of the Kwantung Army,
23 Manchukuo had many persons of broad views and high per-
24 sonality, such as Premier Chiang and successive chiefs
25 of General Bureau. As for ITAGAKI, he trusted and

1. Ex. 3316, T. 30,286-9

1 cooperated with them in their policy in accordance with
2 the intentions of his superior officers.

3 In June 1936 the first abolishment of the
4 extraterritoriality took place. Since the outbreak
5 of the Manchurian Incident ITAGAKI favored this. So
6 also, in consideration of the trend mentioned above,
7 he tried to aid the work of the concerned Japanese
8 and Manchurian personages and to facilitate its mater-
9 ialization.

10 Concerning the personal affairs of the Jap-
11 anese officials, ITAGAKI assisted in the service of
12 the Manchukuo Government, in accordance with the or-
13 der of the commander of the army. He had nothing to
14 do with the internal personal administration and the
15 personal affairs of Manchukuo officials.¹

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23 1. Ex. 3316, T. 30,289
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The National Defense Against U.S.S.R.

1 According to the testimony of ITAGAKI,
2 implementing the national defense against the U.S.S.R.
3 was the basic duty of the Kwantung Army and the basic
4 principle thereof was established sometime ago, and
5 ITAGAKI followed it as Chief of Staff. The program
6 established by the Kwantung Army, however, was based,
7 of course, upon the instruction of the General Staff
8 and was of purely defensive nature with the object
9 of providing for the emergency which would be pre-
10 cipitated by an attack by the U.S.S.R. The Army
11 never made any aggressive war plan, much less one
12 for aggressive war against the Soviet and Mongolia.¹

14 Interview with Ambassador ARITA.

15 The prosecution alleged that soon after
16 ITAGAKI was promoted to the Chief of Staff, he inter-
17 viewed Ambassador ARITA and discussed the importance
18 of Mongolia in relation to Japan and Manchuria, in
19 which the former stated that, in connection with the
20 aggressive move of China and the Soviet Union, if
21 Japan and Manchuria should unite, the Soviet territories
22 in the Orient would be endangered. As proof of this
23 the prosecution cited exhibit No. 761-A. The prosecu-
24 tion read only two sections, or the second problem of
25 (1. Ex. 3316, Tr. 30,289-90)

Outer Mongolia and the third problem of Inner Mongolia.

1 Both of these have no meaning apart from the first
2 problem of relations with the Soviet Union. The
3 problem of Mongolia was purely subsidiary to the
4 problem of relations with Mongolia; hence it should be
5 read with its main issue, or the first problem of
6 relations with the Soviet Union, which is the content
7 of exhibit No. 2613. In the section dealing with the
8 second problem of Outer Mongolia, there is described
9 in the outset its history, its geographical importance
10 from the strategical point of view, and the words,
11 "Annexation to Manchuria and Japan, etc." are used
12 there hypothetically for the sake of explanation,
13 which do not show any intention of aggression on the
14 part of the Kwantung Army. Further on it says that
15 "therefore, the Army by all means is trying to
16 strengthen the power of Manchuria and Japan against
17 Outer Mongolia." This may seem unsound of a glance,
18 but, if carefully examined respecting its true meaning,
19 it will show an attempt to establish amicable relations
20 with that country, recognizing it as an independent
21 state. This is not inconsistent with the policy of
22 the Soviet Union, as it makes peace and friendship
23 the principle of international relations, and it must
24 be said that it is a very sound intention. Lastly,
25

1 the affirmation of the policy, not to violate and
2 not to have the border violated, was a measure of
3 self-defense taken by Manchukuo and the Kwantung Army,
4 and the same became later a motto of the Kwantung
5 Army. There was no intention of aggression on the
6 part of Manchukuo and the Kwantung Army. The third
7 problem of Inner Mongolia was a result of fear that
8 the communist movement might penetrate into Manchuria
9 through Inner Mongolia. We were compelled to fear
10 Bolshevism because of the 7th General Meeting held
11 by the Comintern at Moscow in the previous year, or
12 July 1935, and also because of the announcement made
13 by Vice Chief of Staff Trakovsky of their plan of
14 campaign in both East and West for the accomplishment
15 of world revolution. In Manchuria there was already
16 formed the Manchurian Province Committee, an organ of
17 Bolshevism, and its movement was becoming active. It
18 was a matter of necessity for the Army to adopt a
19 measure for self-defense in order to prevent its
20 further propagation of Bolshevism.

21 The Policy in Regard to Mongolia.

22 As to the policy in regard to Mongolia,
23 ITAGAKI testified that:
24

25 There were many Mongolians in the interior
of Manchuria and their living places were found even

along the railway between Changchun and Dairen.

1 Accordingly the trends in the Outer and Inner Mongolia
2 involved sharp repercussion on the Mongolians living
3 in Manchukuo, and became the problems of the domestic
4 peace and of the defense of Manchukuo. Accordingly
5 the Kwantung Army and Manchukuo always had a special
6 interest in Outer and Inner Mongolia. Inner Mongolia
7 was assigned as a region in charge of the Kwantung
8 Army for collecting information regarding the U.S.S.R.
9 and Mongolia, and it was under this assignment that
10 the Kwantung Army dispatched intelligence agents and
11 collected information in Inner Mongolia near the
12 frontier line between Manchuria and Mongolia.
13

14 The influence of the northward expansion of
15 the Chinese communist army and the foundation of
16 Manchukuo and other factors combined to give rise to
17 Inner Mongolian's voluntary movement for uniting all
18 Mongolians under the banner of local self-government.
19 In this connection Japan and Manchukuo hoped for its
20 healthy growth from the angle of defense against the
21 U.S.S.R. and prevention of the spread of Bolshevism,
22 but the Kwantung Army did not seek to induce or support
23 the movement, so far as I know.
24

25 The North China Problem.

According to the testimony of ITAGAKI, the

(1. Tr. 30,290-1)

1 Kwantung Army, from the view point of defense against
2 the U.S.S.R., was interested in the North China Problem
3 to secure peace in the rear in case of emergency,
4 but even that interest was diverted to concentrate
5 on the defense of the Northern and internal fortifica-
6 tion of Manchukuo toward December 1935. Accordingly,
7 it is not a fact that the Kwantung Army sent troops
8 to North China.¹

9 The prosecution stated that in May 1935 the
10 Japanese army unit stationed at Tientsin was oppressing
11 China in her home administration, and that ITAGAKI
12 then was Vice Chief of Staff, being of the opinion
13 that the negotiations with China should not be left
14 for diplomatic agents but the Army should take the
15 lead, and by making use of the staffs of the South
16 Manchurian Railway as well as of the Japanese Army,
17 he actually oppressed China, the result of which was
18 the agreement reached between the two countries known
19 as the UMEZU and Ho Ying-chin Agreement. For its
20 proof of this fact, the prosecution cited exhibit
21 No. 2192 (KIDO's Diary). KIDO's Diary, however, is
22 no more than the record of a biased view of the Foreign
23 Office. The Kwantung Army then had no controlling power
24 over North China, its only concern being with the
25 (1. Ex. 3316, Tr. 30,291)

1 maintenance of friendly relations there and with the
2 progress of warfare in the area mentioned in the
3 Tangku Truce Agreement. The crystalization of this
4 concern was the conclusion of the UMEZU and Ho Ying-
5 chin Agreement. It was the problem which belonged
6 entirely to the Tientsin Army.

7 The Kwantung Army could not command the
8 Tientsin Army. The defendant ITAGAKI, then as the
9 Chief of Staff of the Kwantung Army, had no power
10 over the affairs. Nor had he any hand in the con-
11 clusion of the UMEZU and Ho Ying-chin Agreement.

12 Formation of East Hopei Autonomous Anti-
13 Communis Council.

14 According to the testimony of the witness
15 KAWAFU, Torashiro, by the Tangku Truce Agreement, a
16 certain district along the Manchurian border was
17 fixed as an unarmed area, over which the Kwantung
18 Army had the right to inspect at will as to its real
19 condition. After the Agreement was reached, Yin
20 Ju-keng, by the recommendation of Hyang fu, Chairman
21 of the North China Political Council, became the
22 sole supervisor of this unarmed area, which included
23 twenty-two prefectures of East Hopei. Then Yin Ju-
24 keng, being dissatisfied with the policies of the
25 Nanking Government on the Financial problems, and also

1 in view of the movement for local self-government
2 started in his own supervising area by farmers in
3 October 1935, organized the East Hopei Autonomous
4 Anti-Communist Council, with himself as the Chairman,
5 and promulgated the establishment of a self-govern-
6 ment, thereby asserting his political power for the
7 furtherance of his autonomous anti-communism.¹

8 Neither did the East Hopei Autonomous Council
9 nor its self-government come into existence under the
10 coercion or by the interference of the Kwantung Army.
11 Defendant ITAGAKI who was at that time the Vice-Chief
12 of Staff of the Kwantung Army did not associate him-
13 self with the formation of the council or self-
14 government. Nor did he have any concern with them in
15 one way or other.
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23 (1. Ex. 2489, Tr. 20,757-9)
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Concerning the DOHIHARA and Chin Te-chun
1 Agreement.

2 According to the testimony made by witness
3 KAWABE, Torashiro:

4 "In the vicinity of the border line between
5 Manchuria and Chahar Province in China, the border
6 questions have arisen so frequently such as the case
7 of insulting a Japanese Army officer and a secretary
8 of the Foreign Office by Sung Che-yuan's Army, at
9 Changpeh in October 1934; the invasion of some of his
10 army into Manchuria on 24 January 1935; the invasion
11 of some other army of his into Manchuria for the second
12 time, which opened fire upon our garrison guards on
13 the border. In view of these frequent occurrences along
14 the border and fearing that the situation might lead
15 to an unfortunate incident between Manchukuo (or Japan)
16 and China, the Commander-in-Chief of the Kwantung Army,
17 becoming cognizant of the appropriateness of extending
18 the purport of the Tangku Truce Agreement over this
19 area, and after obtaining the approval of the central
20 authorities, dispatched Major General DOHIHARA, the
21 then Chief of the Special Service Section at Mukden
22 under the Kwantung Army, in order to negotiate with
23 the authorities of Chahar Province in China. Through
24 these negotiations the DOHIHARA and Chin Te-chun
25

1 Agreement was concluded on 27 June 1935. The agreement
2 contained the appropriate measures to be taken for the
3 men responsible for the incident, the cessation of
4 anti-Japanese movement in Chahar, the regulations re-
5 lating to the truce area, etc. By this agreement, the
6 unarmed area established by the Tangku Truce Agreement
7 came to be extended over a part of Chahar Province,
8 securing the peace and quietude of this border area." 1.

9 By this testimony the reason for the conclu-
10 sion of the DOHIHARA and Chin Te-chun Agreement is
11 made very clear. The agreement was not made from the
12 aggressive intention of the Kwantung Army. At that
13 time ITAGAKI was the Vice-Chief of Staff of the
14 Kwantung Army but he did not participate in the
15 conclusion of the agreement.

16 Concerning Exhibits No. 3317-A and No. 3318-A.

17 Exhibit No. 3317-A is the order issued by the
18 Kwantung Army to concentrate some forces around Shan-
19 kaikwan, and exhibit No. 3318-A, that to gather some
20 air forces in the vicinity of Shankaikwan. In regard
21 to these exhibits defendant ITAGAKI in cross-examination
22 stated that as far as he could remember, he heard
23 later that some forces had been moved but he thought
24 that was in the sense of a peacetime movement. He
25 1. Ex. No. 2489, Tr. 29,754-6.

1 also heard of the movement of air forces after the
2 event had taken place.¹

3 Concerning these orders, the defendant ITAGAKI
4 does not remember very well, as he had no concern with
5 the reason why these orders were issued. Furthermore,
6 the purport of these orders was to concentrate some
7 forces around Shankaikwan, i.e., it was to move forces
8 within Manchuria, not to the south of Shankaikwan, or
9 into China.

10 At this time, if the Tribunal please,
11 Mr. SASAGAWA will continue the reading.

12 THE PRESIDENT: Mr. SASAGAWA.

13 MR. SASAGAWA: (Reading)

14 SUMMATION ON BEHALF OF ITAGAKI, SEISHIRO.

15 CHAPTER I. ITAGAKI AS COMMANDER OF THE 5TH
16 DIVISION.

17 I. On March 1, 1937, ITAGAKI, who at that
18 time was Chief of the Staff of the Kwantung Army, was
19 transferred to the post of Commander of the 5th Division
20 at Hiroshima, and remained in that post until June 3,
21 1938, when he became Minister of War. In exhibit 110²
22 it is stated that on May 25, 1937, he was ordered to
23 become an officer attached to the General Staff. This
24 was an error. Not in 1937 but in 1938 ITAGAKI received
25

1. Tr. 30,395.

2. Ex. 110; Tr. 716.

1

such an order. In order to bring him from the front where he was active as commander for the purpose of complying with certain formalities and custom such entry was made, but the fact remains that he was not ordered to Tokyo to become an officer attached to the General Staff, and he did not become attached to the General Staff but was installed as War Minister.

The proof shows that at that time the 5th Division was organized on a peacetime footing, and as its commander, ITAGAKI had the entire responsibility for the military affairs and conditions only within the divisional district. As regards any matters other than those, he had no authority and was not in a position to submit opinions or plans of his own to the army central authorities. As regards this matter, the prosecution has made no issue thereof. On the basis of these circumstances, we may say that at the time of the outbreak of the so-called Marco Polo Bridge Incident on July 7, 1937, ITAGAKI was at his post in the 5th Division Headquarters at Hiroshima and that he knew nothing of the event until, to his surprise, he saw it in the newspapers the next morning.²

Therefore, the charge against the defendant in count 19, alleging that on or about July 7, 1937,

1. Ex. 3316, Tr. 30,293.

2. Ex. 3316, Tr. 30,294.

1 he initiated a war of aggression and a war in violation
2 of international law, treaties, agreements and assur-
3 ances, against the Republic of China, has not been
4 sustained.

5 II. On July 27, 1937, emergency mobilization
6 orders were issued to the 5th Division and ITAGAKI went
7 over to North China as its commander.¹

8 Once around August 31, 1937, while he was
9 stationed at Hwailai, he had an interview with John
10 Goette, chief correspondent for the International News
11 Service.² This latter person took the stand in this
12 case and testified that General ITAGAKI spoke freely
13 about what had been accomplished in a military way, and
14 then the question was put to him: "Is there a possibi-
15 lity that you might turn south and advance to the
16 Yellow River?" and that the correspondents were sur-
17 prised at his reply that he might so turn. We presume
18 that the prosecution hoped to have this Tribunal believe
19 from this testimony that General ITAGAKI then had
20 knowledge of a plan of conquest on Japan's part at a
21 time when the affair was called merely an 'incident'
22 and not a 'war' in the strict sense of the term, and
23 that ITAGAKI's claim of being a great sympathizer with
24 the Chinese people was betrayed by this remark.
25

1. Ex. 3316 (as shown above); Tr. 30,294.

2. John Goette's Test.; Tr. 3768.

1 However, in cross-examination the same witness Goette
2 testified that what ITAGAKI replied was simply "that
3 is possible."¹

4 His statement to the correspondent was
5 nothing but an informal conversation and was but a
6 remark to please the correspondent. It is difficult
7 to believe that such a high-ranking and able officer
8 as ITAGAKI would have disclosed such highly confidential
9 matter which concerned future strategic activities of
10 his force if he had any such information. It was but
11 the general's witticism intended to foil the corres-
12 pondents who sought information and to mystify them
13 by such an unexpected reply.

14 III. In the testimony of ITAGAKI himself² and
15 in the affidavit of the witness KOKUBU, Shinshichiro,³
16 it is shown that in December 1937 the main force of
17 the 5th Division under the command of General ITAGAKI
18 was turning from Shansi Province, North China, toward
19 Pao-Ting, Hopei Province, and that on December 17 at
20 Pao-Ting ITAGAKI was informed of entry into the city
21 of Nanking of the Japanese forces in Central China.
22 Since ITAGAKI was stationed at Pao-Ting, away from
23 Nanking, as one of the divisional commanders of the
24

- 25 1. Cross-examination upon John Goette; Tr. 3784.
2. Ex. 3316, ITAGAKI's Affidavit; Tr. 30,295.
3. Ex. 3298, Witness KOKUBU's Affidavit; Tr. 30,082.

1 North China Area Army entirely independent of the
2 Central China Area Army, it is clear that he had no
3 connection with the so-called Nanking Incident.

4 Thus we are able to point out that the charge
5 against ITAGAKI concerning conspiracy to commit atro-
6 cities in count 44 is groundless and that the charge
7 against him in count 45 of unlawfully killing and
8 murdering civilians and disarmed soldiers during the
9 attack of Nanking on December 12, 1937, and after, is
10 also entirely groundless for he was not at the scene
11 and the prosecution has not shown that he was in any
12 way responsible or had any connection with it.

13 IV. ITAGAKI, while he was at the front in
14 North China as Commander of the 5th Division (from
15 August 1937 to May 1938), was wholly attentive to his
16 duty in scrupulous obedience to the orders of the
17 commander above him (the army commander) and took
18 special caution in firmly establishing and maintaining
19 military discipline of the highest degree.¹ The steps
20 he took to prevent wrongs which might be committed
21 against inhabitants, have been shown by the witness
22 KOKUBU, Shinhachiro, to say nothing of his own testi-
23 mony.²

- 24
25 1. Ex. 3316 (as shown above); Tr. 30,295.
2. Ex. 3298 (as shown above); Tr. 30,083.

General ITAGAKI held office in China for many years and was known to be a man well acquainted with Chinese matters. Accordingly, he was profoundly cognizant of China and had a deep affection for her and her people. For instance, when some Chinese soldiers surrendered to or some bandits were captured by our army, he would not leave them at his subordinates' disposal but had them brought to him as far as circumstances might permit and took the trouble to place them under close examination, using the Chinese language in which he was quite proficient. Moreover, he strictly prohibited his officers and men from quartering within the city of Taiyuan immediately after its fall and made preparations for the prevention of wrongful acts against the inhabitants.

This is established by the fact that no officers and men who belonged to the 5th Division under the command of ITAGAKI have ever been reported to be war criminal suspects after the close of the war. He had the most rigorous idea of military discipline, a deep sympathy for inhabitants in the area of war, and a warm heart and fair attitude towards prisoners of war who surrendered to the Japanese Army.

REGARDING COUNTS 46 and 47.

V. The prosecution intimated that ITAGAKI

1 was connected with outrages allegedly committed at the
2 time of the attack of the armed forces of Japan upon
3 Kwantung City on October 21, 1938, and thence forwards,
4 and upon Hankow City before and after October 27, 1938,
5 as alleged in counts 46 and 47 respectively. At that
6 time ITAGAKI was War Minister.¹ The China Incident was
7 not regarded as hostilities but as an affair and no
8 rules of international law in time of war were applied
9 thereto, and so there existed no central organ such
10 as the Prisoners' Intelligence Bureau, etc., in which
11 business about prisoners of war should be conducted.
12 The business came under the management of the Supreme
13 Command, being regarded as a commitment of military
14 activities, and was chiefly attended to by the com-
15 mander of unit at the front. Therefore, it was beyond
16 his authority and power of execution to participate in
17 it. No evidence has been produced by the prosecution
18 which shows that ITAGAKI was in any way culpable under
19 the charges in Counts 46 or 47.

20 ITAGAKI AS WAR MINISTER.

21 I. As to the circumstances under which
22 ITAGAKI was appointed as War Minister (he was installed
23 on the 3d of June, 1938), the defense proved by the
24 testimony of the witnesses ITAGAKI himself, FURUNO,
25 1. Ex. 110 and ex. 3316 (as shown above); Tr. 30,297.

1

Inosuke and KONOYE's note, that:

1 Just after KONOYE's Cabinet-making was
2 completed, the Lukowkiao Incident broke out, spreading
3 over, in spite of the Japanese non-aggravation efforts,
4 from North China to the central part of China, while
5 at the same time the entirely untrustworthy trend such
6 as the duplicity of the War Minister's utterances was
7 prevailing in the army circle. Thus faced with these
8 serious difficulties, the necessity consequently arose
9 of revamping the Japanese policy toward China, and
10 appointing as War Minister a person who could and would
11 carry out and realize the General Staff's Lt. General
12 ISHIHARA, Kanji's non-aggravation policy. Therefore,
13 ITAGAKI was proposed strongly to the army by KONOYE,
14 to be War Minister, as his ideas were in keeping with
15 ISHIHARA's. KONOYE sent FURUNO to ITAGAKI who ascer-
16 tained and reported to KONOYE that ITAGAKI believed
17 that the way to settle the incident peacefully was to
18 withdraw all Japanese troops from China as rapidly as
19 possible.
20 2 3
21

22 Being satisfied with this change of War Minister
23 which had taken place at the initiative of the cabinet
24 itself, KONOYE proceeded toward the "KONOYE Statement."

- 25 1. Ex. 3300-A, KONOYE's Note; Tr. 30,094.
2. Ex. 3299, Witness FURUNO's Affidavit; Tr. 30,088.
3. Ex. 3316 (as shown above); Tr. 30,297.

Those facts make it clear that ITAGAKI was appointed War Minister because he was the man best able to realize the nonaggravation policy of the Japanese Government, and accomplish a peaceful settlement of the China Incident which was then spreading over China contrary to the desires of the Japanese; and because it was felt that his executive talent would be applied to efforts for peace and an end to hostilities.

ITAGAKI's reputation in army circles, his unbiassed thoughts, and how strongly he hoped, then, to see the rapid and peaceful settlement of the China Incident, is shown by defense exhibit 3340, a part of KIDO's Diary.

KIDO DIARY - on March 2, 1936, KIDO wrote:

"Monday. Fine. At 9:00 a. m. I called on Messrs. HARA and SAIONJI, Machiro at the sleeping room of the Ministry. HARA went to the palace in response to Prince CHICHIBU's calling. Hearing there Prince CHICHIBU's notice, he came back after 9:00. The notice follows:

"For carrying out a purge in the army (which means the disposition of the incident of February 26); leading officers were convened and

1. Ex. 3340 KIDO's Affidavit; T. 30316-7.

held a conference and they agreed to the opinion
1 that all the present generals be discharged, while
2 Lieutenant-General ITAGAKI might be appointed to
3 the Minister; and that such a Prime Minister as
4 would be able to act his part in concert with
5 Lieutenant-General ITAGAKI be selected. . .'

6
7 "(§96) War Minister SUGIYAMA opposed to the
8 'Cabinet Reorganization.' But being keenly desirous
9 of settling the China Incident, Prince KONOYE and
10 I made every effort in our power, even by opposing
11 to the part of War Ministry.

12 "And for terminating the incident we pro-
13 ceeded with the plan that seemed to be possibly
14 realized. And the plan was realized at the time of
15 the 'Cabinet Reorganization' on the 26th of May by
16 joining Messrs. UGAKI, Ikeda, and ARAKI, in the
17 cabinet, which consequently served the purpose of
18 enhancement of the cabinet's dignity and internal
19 potential of Japan.

20 "Being not only well in touch with the
21 Chinese and their affairs but also popular with them,
22 Lieutenant-General ITAGAKI was appointed to the War
23 Minister as a suitable one who might lead the incident
24 to the end."

25 "(§97) Through the above written course the

1 cabinet was reorganized. Invited by Prince KONOYE, I
2 had the opportunity to dine with War Minister ITAGAKI
3 and Prince KONOYE on the 18th of June, in which we
4 freely spoke out our feelings, our hope to terminate
5 the incident as rapidly as possible, exchanging further
6 our frank opinions about the discussion thereof by
7 the cabinet. Knowing the War Minister's true heart,
8 I could set my heart at rest."

9 On cross-examination of the witness FURUNO,
10 Inosuke, he was shown exhibit 2197,^{1.} a newspaper
11 account from the "Japan Advertiser," according to
12 which ITAGAKI, after he was made War Minister on
13 June 26, 1938 (the 13th Year of Showa) told a corre-
14 spondent of the "Domei Tsushin" that Japan must make
15 sufficient preparations to carry on war for ten years
16 more and that general support was asked for the pur-
17 pose.

18 The witness FURUNO did not verify the account
19 as an authentic one. Exhibit 2197 has no probative
20 value. It was stated by the witness^{2.} that even when
21 military operations were going on, constant efforts
22 were being made to find out how peace could be made

- 23 1. Ex. 2197, account from "Japan Advertiser," T.15741.
24 2. Cross-examination upon FURUNO, 6 October 1947;
25 T. 30090.

1 with China. The prosecution, which has the burden,
2 has not established the contrary.

3 As is previously stated, ITAGAKI, who did not
4 belong to any of the so-called cliques and who was
5 a strictly impartial general with no political career,
6 was selected War Minister while serving as a divisional
7 commander at the front. This appointment as successor
8 to War Minister SUGIYAMA was made on the government's
9 own accord, based on the firm belief of Premier KONOYE,
10 that ITAGAKI's trust in and concern for China made him
11 the best man to bring about an early peaceful settle-
12 ment of the unhappy Sino-Japanese War.

13 It was ITAGAKI's view that the way to an
14 early peace was to withdraw all Japanese troops from
15 China and he urged that this be done. These facts
16 are of great importance in considering the subsequent
17 movements of ITAGAKI.

18 (a) ITAGAKI, not knowing of what the prosecu-
19 tion calls the military clique, had no concern with it.
20 It has been shown that he had nothing to do with
21 either the SAKURA-KAI, the March Affair, the October
22 Affair, the 15th May Affair, or the 26th February
23 Affair.
24

25 (b) ITAGAKI, strictly a military man, had
no interest in politics. However, under those

1 circumstances especially at the earnest wish of
2 Premier KONOYE and on the unanimous recommendation
3 of the three chiefs of the army^{1.} he decided to
4 serve his country and accept the order of direct
5 appointment by His Majesty the Emperor.

6 (c) He deeply regretted that he had not
7 after all been able to attain his object in his
8 later activities as War Minister, but he had been
9 compelled to abandon his post, leaving the intended
10 peaceful settlement of the Sino-Japanese Affair
11 unaccomplished. This was partly because various
12 relations at home and abroad made it impossible for
13 ITAGAKI to effect his purpose, and partly because of
14 his lack of ability. He deeply regretted this failure.
15 He did neither intend nor try to plan, prepare and
16 wage a war of invasion of China, as alleged by the
17 prosecution.

18 II. The circumstances under which ITAGAKI
19 was made War Minister have been shown. It was quite
20 natural and proper that in his activities as War
21 Minister he should have followed the governing
22 principle, which had been established by his firm
23 conviction as follows:
24
25

1. Ex. 3316 (as shown above) T. 30300.

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2 Premier KONOYE and on the unanimous recommendation
3 of the three chiefs of the army^{1.} he decided to
4 serve his country and accept the order of direct
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20 natural and proper that in his activities as War
21 Minister he should have followed the governing
22 principle, which had been established by his firm
23 conviction as follows:
24
25

1. Ex. 3316 (as shown above) T. 30300.

1 It was Japan's constant policy toward
2 China that the two nations should not fight each
3 other, but go hand in hand. But, after all efforts
4 made by Japan for nonenlargement and local settlement,
5 a local trouble between the two countries, which
6 broke out in North China, had gradually developed
7 into an over-all conflict between Japan and China.
8 The Sino-Japanese Affair had then reached a stage
9 of a protracted and extensive war, sinking into a
10 fathomless bog. Thus Japan was not only driven into
11 such an unexpected situation, but she was also con-
12 fronted with another serious danger. That was that
13 Soviet Russia, her northern neighbor, was threatening
14 Japan with her overwhelmingly superior military prepa-
15 rations in the Far East, which was brought about by
16 Russia's remarkably increased national strength due
17 to her five-year plans. Britain and the United States
18 had become more active than ever in giving aid to the
19 Chiang Regime and interfering with Japan's military
20 operations. Above all, American pressure on Japan,
21 mostly economical, had to be watched carefully. In
22 these circumstances, it was unavoidable that Japan, if
23 she sat still with her hands folded and doing nothing,
24 would be forced into a position of international
25 isolation by the encircling influence of Britain, the

United States, the Soviet and China. Therefore,
1 Japan must lose no time in making peace with China.
2 As to her relations with China, all the past issues
3 between the two countries should be laid aside, and
4 new relations built upon a broader point of view, too,
5 in order to establish reciprocal equality and friend-
6 ship.^{1.} Convinced that this governing principle was
7 right, ITAGAKI, as War Minister decided to conduct
8 state affairs along the following lines:
9

10 "As the policy of the army to endeavour
11 to establish military discipline and secure defensive
12 strength against the Soviet.

13 "Domestically -- efforts were to be made to
14 effect an early peaceful settlement with China by
15 moderating the peace terms and also to reorganize
16 drastically the management of State affairs, in fuller
17 recognition of the serious situation, for the purpose
18 of making good the increasing depletion of materials
19 and supplies and keeping up defensive strength against
20 the Soviet.
21

22 "As to China -- further efforts should be
23 made to suspend our armed advancement, evacuate some
24 part of the armed forces, stabilize the occupation
25 zones, and, at the same time, bring about a peaceful
settlement with the Chiang Regime.

1. Ex. 3316 (as shown above); Tr. 30,298.

1 "A careful watch on the movements of the
2 Soviet Union should be kept.

3 "Britain and France should be persuaded to
4 cease giving aid to the Chiang Regime, and to keep
5 pace with Japan's efforts to suspend hostilities.

6 "As to Germany and Italy -- both friendly
7 nations, Japan is to ask for promotion of friendship
8 with her and also for cooperation in Japan's efforts
9 at settlement of the Sino-Japanese Affair.

10 "As for the United States -- Japan should
11 secure her as a friendly nation and have her become
12 a propelling factor in settling the Sino-Japanese
13 Affair."

14 In connection with these, ITAGAKI concen-
15 trated his efforts on suspending hostilities with
16 China, and then effecting pacific settlement of the
17 affair.
18

19 The said governing principle, of which he
20 was firmly convinced, and his policy of conducting
21 state affairs, must be referred to, and kept in mind,
22 in examining the subsequent movements of War Minister
23 ITAGAKI. This case is one in which all the wide and
24 complicated fields of national and international poli-
25 cies are involved, and in which it is sought to call

1. Ex. 3316 (as shown above); T. 30300.

1 a person to account, concerning his official acts as
2 an executive, as well as a subject of a state with
3 independent sovereignty, in connection with the ac-
4 tions of the State. Therefore, it is vitally important
5 to inquire into what he thought, what he believed,
6 and was convinced of -- that is his mental state.
7 On all the evidence it appears that he was not
8 possessed of a guilty mind, that he had no criminal
9 intent.

10 The prosecution has not sustained its burden
11 of establishing his guilt beyond a reasonable doubt.

12 THE PRESIDENT: We will adjourn until half-
13 past nine tomorrow morning.

14 (Whereupon, at 1600, an adjournment
15 was taken until Thursday, 25 March 1948, at
16 0930.)
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